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LEGISLATURE OF THE STATE OF IDAHO
Sixtieth Legislature Second Regular Session - 2010

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO THE SOIL CONSERVATION DISTRICT LAW; AMENDING SECTION 22-2716, IDAHO CODE, AMENDING SECTION 22-2717, IDAHO CODE, AMENDING SECTION 22-2718, IDAHO CODE, AMENDING SECTION 22-2719, IDAHO CODE, AMENDING SECTION 22-2720, IDAHO CODE, AMENDING SECTION 22-2721, IDAHO CODE, AMENDING SECTION 22-2723, IDAHO CODE, AMENDING SECTION 22-2724, IDAHO CODE, AMENDING SECTION 22-2725, IDAHO CODE, AMENDING SECTION 22-2727, IDAHO CODE, AMENDING SECTION 22-2730, IDAHO CODE, AMENDING SECTION 22-2731, IDAHO CODE, AMENDING SECTION 22-2732, IDAHO CODE, AMENDING SECTION 22-2733, IDAHO CODE, AMENDING SECTION 22-2734, IDAHO CODE, AMENDING SECTION 22-2735, IDAHO CODE, AMENDING SECTION 22-5201, IDAHO CODE, AMENDING SECTION 22-5202, IDAHO CODE, AMENDING SECTION 22-5203, IDAHO CODE, AMENDING SECTION 22-5204, IDAHO CODE, AMENDING SECTION 22-5205, IDAHO CODE, AMENDING SECTION 22-5206, IDAHO CODE, AMENDING SECTION 36-2404, IDAHO CODE, AMENDING SECTION 39-3602, IDAHO CODE, AMENDING SECTION 39-6407, IDAHO CODE, AMENDING SECTION 39-6609, IDAHO CODE, AMENDING SECTION 42-3703, IDAHO CODE, AMENDING SECTION 42-3705, IDAHO CODE, AMENDING SECTION 42-3706, IDAHO CODE, AMENDING SECTION 42-3707, IDAHO CODE, AMENDING SECTION 42-3717, IDAHO CODE, AMENDING SECTION 67-818, IDAHO CODE, AND PROVIDING A TRANSFER OF PROPERTY AND OBLIGATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-2716, Idaho Code, be, and the same is hereby amended to read as follows:

22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It is the determination of the state of Idaho that:

(a) Forest lands, rangelands and agricultural lands maintained in a healthy condition are a legitimate land use contributing to the economic, social and environmental well-being of the state and its citizens;

(b) It is essential to the general welfare of all citizens of this state that multiple use conservation improvements be implemented on a broader scale on both public and private lands;

(c) Due to numerous economic and practical issues relating to the improvements of individual tracts of land, both public and private resource conservation improvements, projects and programs of the nature contemplated by this chapter would enhance the economic productivity and environmental quality of the state; and

(d) It is sound public policy for the state of Idaho to provide for accounts to finance loans, grants, cost-share funding and tax incentives to the end that forest lands, rangelands and agricultural

1 lands within the state can provide the greatest benefit to all
2 concerned.

3 (2) It is the intent of the state of Idaho to provide a means by which
4 funds, including federal, state, private and other moneys, can be obtained
5 and utilized for the accelerated development of water quality programs,
6 multiple use forest land, rangeland, and agricultural land conservation
7 improvements in the state, and to provide that these improvements, projects
8 and programs be locally planned, coordinated and implemented through
9 statutory provisions pertaining to soil conservation districts, the ~~state~~
10 office of soil and water conservation commission, appropriate state and
11 federal agencies, and the owners and operators of privately owned lands.

12 (3) It is in the best interest of the state of Idaho:

13 (a) To emphasize nonregulatory, science-based technical assistance,
14 incentive-based financial programs and informational and educational
15 programs at the local level;

16 (b) To maintain, preserve, conserve and rehabilitate forest lands,
17 rangelands and agricultural lands to assure the protection and
18 productivity of the state's natural resources;

19 (c) That soil conservation districts, as governmental subdivisions,
20 and the ~~state office of soil and water conservation commission, as~~
21 ~~a state agency,~~ are the primary entities to provide assistance to
22 private landowners and land users in the conservation, sustainment,
23 improvement and enhancement of Idaho's natural resources;

24 (d) To establish policies for cooperative working relationships
25 between local soil conservation districts, the ~~state office of soil and~~
26 water conservation commission, local, state and federal agencies and
27 public and private groups to plan, develop and implement conservation
28 goals and initiatives with local landowners and land users;

29 (e) That soil conservation districts and the ~~state office of soil and~~
30 water conservation commission lead nonregulatory efforts to conserve,
31 sustain, improve and enhance Idaho's private and state lands and
32 to provide assistance to private landowners and land users to plan,
33 develop and implement conservation plans addressing soil, water, air,
34 plant and animal resources. Technical, financial and educational
35 assistance to landowners and land users is vital to that effort; and

36 (f) That the ~~state office of soil and water conservation commission~~
37 provide support to soil conservation districts in the wise use and
38 enhancement of soil, water and related resources.

39 (4) It is the policy of the state of Idaho:

40 (a) To provide appropriate tax policies and program mechanisms that
41 provide incentives for private landowners and land users to voluntarily
42 manage forest lands, rangelands and agricultural lands in a manner that
43 promotes conservation;

44 (b) That the health, safety and general welfare of the people of this
45 state can be greatly enhanced by providing nonregulatory opportunities
46 to landowners and land users in order to increase the ability of such
47 landowners and land users to readily understand and plan for local,
48 state and federal natural resource requirements and opportunities
49 through technological innovation and processes;

(c) To enhance natural resource productivity in order to promote a strong natural resource sector, reduce unintended adverse effects of resource development and use, protect individual and community health and safety and encourage stewardship;

(d) That conservation plan implementation shall include best management practices implemented according to the standards and specifications developed by the United States department of agriculture natural resources conservation service (NRCS) as designated by the agricultural pollution abatement plan. Those practices shall include, but not be limited to: irrigation water management systems; prescribed grazing; forest stand improvement; establishment of grass, trees and shrubs to reduce wind and water erosion; promotion of sound community development; protection of water and air resources from agricultural nonpoint sources of impairment; maintenance, restoration or enhancement of wetlands and fish and wildlife habitat; protection of upstream watersheds from flood risk; and protection of watersheds from the effects of chronic water shortages and risks; and

(e) That all conservation programs authorized pursuant to this chapter shall deliver services fairly and equitably, strengthen the conservation district delivery system, provide timely science-based information and provide conservation information and educational programs and experiences to youth and adults.

SECTION 2. That Section 22-2717, Idaho Code, be, and the same is hereby amended to read as follows:

22-2717. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator for the office of soil and water conservation.

~~(2) "Agency of this state"~~ includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

~~(23)~~ "Agricultural pollution abatement plan" or "ag plan" means the document developed by the state office of soil and water conservation ~~commission~~ and approved by the commission office and the department of environmental quality, that provides appropriate technical, programmatic, informational and educational processes, guidelines and policies for addressing agricultural pollution.

~~(3) "Agriculture" or "department of agriculture" means an executive department of state government created in section 22-101, Idaho Code.~~

(4) "Best management practices" or "BMPs" means practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

~~(5) "Commission" or "state soil conservation commission" means the agency created in section 22-2718, Idaho Code.~~

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1 (65) "Conservation plan" means a description of identified natural
2 resource issues and a specific schedule of implementation of component
3 practices necessary to resolve those specific resource issues as agreed upon
4 by the landowner.

5 (6) "Department of agriculture" or "department" means the executive
6 department of state government created in section 22-101, Idaho Code.

7 (7) "Designated agency" is as defined in section 39-3602, Idaho Code.

8 (8) "District," "conservation district," "soil conservation
9 district," or "soil and water conservation district" means a governmental
10 subdivision(s) of this state, and a public body corporate and politic,
11 organized in accordance with the provisions of this ~~act~~ chapter, for the
12 purposes, with the powers, and subject to the restrictions hereinafter set
13 forth.

14 (9) "Due notice" means notice published at least twice, with an
15 interval of at least seven (7) days between the two (2) publication dates,
16 in a newspaper or other publication of general circulation within the
17 appropriate area, or if no such publication of general circulation be
18 available, by posting at a reasonable number of conspicuous places within
19 the appropriate area, such posting to include, where possible, posting at
20 public places where it may be customary to post notices concerning county or
21 municipal affairs generally. At any hearing held pursuant to such notice,
22 at the time and place designated in such notice, adjournment may be made
23 from time to time without the necessity of renewing such notice for such
24 adjournment dates.

25 (10) "Eligible applicant" means an individual agricultural owner,
26 operator, partnership, corporation, conservation district, irrigation
27 district, canal company or other agricultural or grazing interest.

28 (11) "Government" or "governmental" includes the government of this
29 state, the government of the United States, and any subdivisions, agency, or
30 instrumentality, corporate or otherwise, of either of them.

31 ~~(12) "Idaho association of soil conservation districts (IASCD)" means~~
32 ~~an incorporated, nongovernmental entity representing all soil conservation~~
33 ~~districts in Idaho.~~

34 ~~(13)~~ "Idaho OnePlan" means a computer-based system for improving
35 efficiency and effectiveness of natural resource planning by landowners and
36 land users.

37 (143) "Landowner" or "owner" includes any person, firm, or corporation
38 who shall hold title to any lands lying within a district organized under the
39 provisions of this chapter. A buyer on contract, who is the occupier of land,
40 shall be construed as landowner.

41 (154) "Land user" means any entity with a lease, permit or similar
42 business agreement with a landowner to implement, manage or utilize such
43 land for activities related to use of the land.

44 (165) "Natural resources conservation service" or "NRCS" means the
45 agency governed by the provisions of 16 U.S.C. section 590a through 590d and
46 590f.

47 (176) "Nominating petition" means a petition filed under the provisions
48 of section 22-2721, Idaho Code, to nominate candidates for the office of
49 supervisor of a soil conservation district.

1 (17) "Office of soil and water conservation" or "office" means the
2 entity established in section 22-2718, Idaho Code.

3 (18) "Participant" means an individual agricultural owner, operator,
4 partnership, private corporation, conservation district, irrigation
5 district, canal company, or other agricultural or grazing interest approved
6 by the ~~commission~~ office of soil and water conservation or an individual
7 agricultural owner, operator, partnership, or private corporation approved
8 for implementation of conservation improvements, projects, or the water
9 quality program for agriculture.

10 (19) "Petition" means a petition filed under the provisions of
11 subsection ~~A.~~ (1) of section 22-2719, Idaho Code, for the creation of a
12 district.

13 (20) "Project sponsor" means a conservation district, irrigation
14 district, canal company, or other agricultural or grazing interest,
15 as determined appropriate by the ~~commission~~ office, that enters into a
16 conservation improvement or water quality project agreement with the
17 ~~commission~~ office.

18 (21) "Qualified elector" means any person who is qualified to vote
19 pursuant to the requirements of section 34-104, Idaho Code.

20 (22) "Riparian land" means the beds of streams, the adjacent vegetation
21 communities and the land thereunder, which are predominately influenced by
22 their association with water and are privately owned.

23 (23) "Specifications" means the materials, operations and procedures
24 necessary to obtain the desired standards of construction and installation.

25 (24) "Standards" means the minimum limits of technical excellence of a
26 component practice for its planning, design and construction.

27 (25) "State" means the state of Idaho.

28 (26) "Supervisor" means one (1) of the members of the governing body of a
29 district elected or appointed in accordance with the provisions of this ~~act~~
30 chapter.

31 (27) "Total maximum daily load" is as defined in section 39-3602, Idaho
32 Code.

33 (28) "United States" or "agencies of the United States" includes the
34 United States of America, the natural resources conservation service
35 of the United States department of agriculture, and any other agency or
36 instrumentality, corporate or otherwise, of the United States of America.

37 SECTION 3. That Section 22-2718, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 22-2718. ~~STATE OFFICE OF SOIL AND WATER CONSERVATION COMMISSION.~~ (1)
40 There is hereby established ~~and created~~ in the ~~department of agriculture~~
41 ~~of the state of Idaho~~ office of the governor the ~~state office of soil and~~
42 ~~water conservation commission~~ which shall in cooperation with the director
43 ~~of the department of agriculture~~ perform all functions conferred upon it
44 by this chapter. The office of soil and water conservation ~~commission~~
45 shall be a nonregulatory ~~agency~~ office. The ~~commission~~ office shall
46 consist of five (5) board members appointed by the governor, ~~but no more~~
47 ~~than three (3) members shall be a member of the same political party.~~
48 In appointing board members, the governor shall give consideration to

1 geographic representation. The soil and water conservation districts may
2 submit to the governor a list of up to three (3) names for each vacancy
3 on the board and the governor may, in his discretion, consider any such
4 submission in the appointment of board members. The term of office of each
5 ~~commission~~ board member shall be five (5) years; except that upon July 1,
6 ~~1967~~ 2010, the governor shall appoint one (1) member for a term of one (1)
7 year, one (1) member for a term of two (2) years, one (1) member for a term
8 of three (3) years, one (1) member for a term of four (4) years and one (1)
9 member for a term of five (5) years. From and after the initial appointment
10 the governor shall appoint a board member of the ~~commission~~ office of soil
11 and water conservation to serve in office for a term of five (5) years
12 commencing upon July 1 of that year. A vacancy which occurs in an unexpired
13 term shall be filled for its remainder by the governor's appointment. Any
14 ~~commissioner~~ board member may be removed during his term of office by the
15 governor. Any ~~commissioner~~ board member so removed shall have notice of the
16 same in writing, specifying the reasons for the removal. Each vacancy on
17 the ~~commission~~ office of soil and water conservation board shall be filled
18 by appointment by the governor. Such appointments shall be confirmed by the
19 senate. The ~~commission~~ office of soil and water conservation may invite
20 the state conservationist of the United States department of agriculture
21 natural resources conservation service, ~~the president of the Idaho~~
22 ~~association of soil conservation districts~~ a representative from a district
23 or districts and the dean of the college of agriculture of the university
24 of Idaho or his designated representative, or any other person or entity as
25 the office deems appropriate, to serve as nonvoting advisory members of the
26 ~~commission~~ office. The ~~commission~~ office shall keep a record of its official
27 actions, shall adopt a seal, which seal shall be judicially noticed, and may
28 perform such acts, hold such public hearings, and promulgate such rules as
29 may be necessary for the execution of its functions under this chapter.

30 (2) The ~~director of the department of agriculture~~ governor shall
31 appoint the administrator of the office of soil and water conservation
32 ~~commission~~ from a list of persons recommended by the office of soil and water
33 conservation ~~commission~~. The state office of soil and water conservation
34 ~~commission~~ may employ such technical experts and such other agents and
35 employees, permanent and temporary, as it may require, and shall determine
36 their qualifications, duties and compensation. The ~~commission~~ office
37 of soil and water conservation may call upon the attorney general of the
38 state for such legal services as it may require. It shall have authority to
39 delegate to its chairman, to one (1) or more of its members, or to one (1)
40 or more agents or employees, such powers and duties as it may deem proper.
41 It shall be supplied with suitable office accommodations, and shall be
42 furnished with the necessary supplies and equipment. Upon request of the
43 ~~commission~~ office, for the purpose of carrying out any of its functions,
44 the supervising officer of any state agency, or of any state institution of
45 learning shall insofar as may be possible under available appropriation, and
46 having due regard to the needs of the agency to which the request is directed,
47 assign or detail to the ~~commission~~ office members of the staff or personnel
48 of such agency or institution of learning, and make such special reports,
49 surveys, or studies as the ~~commission~~ office may request.

1 (3) The ~~commission~~ office shall designate its chairman, and may
2 from time to time, change such designation. A majority of the ~~commission~~
3 board members present at any meeting shall constitute a quorum, and ~~the~~
4 concurrence of a majority in any matter within their duties vote of the
5 quorum at any meeting shall be required for its determination constitute an
6 official act of the board. The chairman and board members of the ~~commission~~
7 office shall be compensated as provided by section 59-509(h), Idaho Code.
8 The ~~commission~~ office shall provide for the execution of surety bonds for all
9 employees and officers who shall be entrusted with funds or property; shall
10 provide for the keeping of a full and accurate record of all proceedings and
11 of all resolutions, and orders issued or adopted; and shall provide for an
12 annual audit of the accounts of receipts and disbursements.

13 (4) In addition to the duties and powers hereinafter conferred upon the
14 ~~state~~ office of soil and water conservation ~~commission~~, it shall have the
15 following responsibilities:

16 (a) To offer such assistance as may be appropriate to the supervisors of
17 soil conservation districts, organized as provided hereinafter, in the
18 carrying out of any of their powers and programs.

19 (b) To keep the supervisors of each of the several districts organized
20 under the provisions of this chapter informed of the activities
21 and experience of all other districts organized hereunder, and to
22 facilitate an interchange of advice and experience between such
23 districts and cooperation between them.

24 (c) To coordinate the progress of the several soil conservation
25 districts organized hereunder so far as this may be done by advice and
26 consultation.

27 (d) To secure the cooperation and assistance of the United States and
28 any of its agencies, and of agencies of this state, in the work of such
29 districts.

30 (e) To disseminate information throughout the state concerning the
31 activities and programs of the soil conservation districts in areas
32 where their organization is desirable.

33 (f) To provide for the establishment and encouragement of the "Idaho
34 OnePlan" as a primary computer-based conservation planning process for
35 all natural resource concerns. Establishment and encouragement will
36 be accomplished through an executive group and steering committee both
37 containing private, state and federal representation. The information
38 provided by those using the "Idaho OnePlan" shall be deemed to be trade
39 secrets, production records or other proprietary information and shall
40 be kept confidential and shall be exempt from disclosure pursuant to
41 section 9-340D, Idaho Code.

42 (5) In addition to other powers, functions and duties of soil
43 conservation districts and the ~~state~~ office of soil and water conservation
44 ~~commission~~ provided in this chapter, the ~~commission~~ office shall have the
45 following additional powers, functions and duties:

46 (a) ~~The commission shall~~ conduct, in cooperation with appropriate
47 federal and state agencies and the owners and operators of privately
48 owned forest lands, rangelands and agricultural lands in this state,
49 conservation improvements on or in respect to these lands for the

1 purposes of implementing conservation systems to conserve and improve
2 natural resource conditions;

3 ~~(b) The commission shall a~~Assist and advise soil conservation
4 districts and other entities in implementing the conservation
5 improvements, projects, and the water quality program for agriculture.
6 To the extent that there are available general funds, the ~~commission~~
7 office shall provide for grants and cost-share opportunities and,
8 as legislatively designated, utilize the resource conservation and
9 rangeland development fund for loans for conservation improvements.
10 Provided however, that the ~~commission office~~ shall determine whether
11 general or resource conservation and rangeland development funds
12 are available before approving any conservation improvements,
13 projects, and cost-share opportunities and, after having made
14 such determination, shall enter into the necessary contracts for
15 implementation;

16 ~~(c) The state soil conservation commission shall be the agency~~
17 ~~responsible for the administration of~~ Administer funds accruing to
18 the resource conservation and rangeland development fund and for all
19 general funds appropriated as a separate and distinct action of the
20 legislature to implement the powers, functions and duties of soil
21 conservation districts and the ~~commission office~~; and

22 (d) On or before February 1 of each year, report to the senate
23 agricultural affairs committee and the house agricultural affairs
24 committee; and

25 ~~(e) The commission shall p~~Promulgate such rules as are necessary to
26 carry out the purposes of this chapter.

27 SECTION 4. That Section 22-2719, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. ~~A.~~ (1) Any
30 twenty-five (25) owners of land lying within the limits of the territory
31 proposed to be organized into a district may file a petition with the
32 ~~state office of soil and water conservation commission~~ asking that a soil
33 conservation district be organized to function in the territory described in
34 the petition. Such petition shall set forth:

35 ~~(1a)~~ The proposed name of said district;

36 ~~(2b)~~ That there is need, in the interest of the public health, safety,
37 and welfare, for a soil conservation district to function in the
38 territory described in the petition;

39 ~~(3c)~~ A description of the territory proposed to be organized as a
40 district, which description shall not be required to be given by metes
41 and bounds or by legal subdivisions, but shall be deemed sufficient if
42 generally accurate;

43 ~~(4d)~~ A request that the ~~state office of soil and water conservation~~
44 ~~commission~~ duly define the boundaries for such district; that a
45 referendum be held within the territory so defined on the question of
46 the creation of a soil conservation district in such territory; and that
47 the ~~commission office~~ determine that such a district be created.

1 Where more than one (1) petition is filed covering parts of the same
2 territory, the state office of soil and water conservation ~~commission~~ may
3 consolidate all of any such petitions.

4 ~~B.~~(2) Within thirty (30) days after such petition has been filed
5 with the state office of soil and water conservation ~~commission~~, it shall
6 cause due notice to be given of a proposed hearing upon the question of the
7 desirability and necessity, in the interest of the public health, safety,
8 and welfare, of the creation of such district, upon the question of the
9 appropriate boundaries to be assigned to such district, upon the propriety
10 of the petition and other proceedings taken under this chapter, and upon
11 all questions relevant to such inquiries. All owners of land within the
12 limits of the territory described in the petition, and of lands within any
13 territory considered for addition to such described territory, and all other
14 interested parties, shall have the right to attend such hearings and to
15 be heard. If it shall appear upon the hearing that it may be desirable to
16 include within the proposed district territory outside of the area within
17 which due notice of the hearing has been given the hearing shall be adjourned
18 and the due notice of further hearing shall be given throughout the entire
19 area considered for inclusion in the district, and such further hearing
20 held. After such hearing, if the commission office shall determine upon
21 the facts presented at such hearing and upon such other relevant facts
22 and information as may be available, that there is need in the interest of
23 the public health, safety and welfare, for a soil conservation district
24 to function in the territory considered at the hearing, it shall make
25 and record such determination, and shall define by metes and bounds or
26 by legal subdivisions, the boundaries of such district. In making such
27 determination and in defining such boundaries, the commission office shall
28 give due weight and consideration to the topography of the area considered
29 and of the state, the composition of soils therein, the distribution of
30 erosion, the prevailing land use practices, the desirability and necessity
31 of including within the boundaries the particular lands under consideration
32 and the benefits such lands may receive from being included within such
33 boundaries, the relation of the proposed area to the existing watersheds
34 and agricultural regions, and to other soil conservation districts already
35 organized or proposed for organization under the provisions of this chapter,
36 and such other physical, geographical, and economic factors as are relevant,
37 having due regard to the legislature determinations set forth in section
38 22-2716, Idaho Code. The territory to be included within such boundaries
39 need not be contiguous. If the commission office shall determine after such
40 hearing, after due consideration of the said relevant facts, that there
41 is no need for a soil conservation district to function in the territory
42 considered at the hearing, it shall make and record such determination
43 and shall deny the petition. After six (6) months ~~shall~~ have expired from
44 the date of the denial of such petition, subsequent petitions covering the
45 same or substantially the same territory may be filed as aforesaid and new
46 hearings held and determinations made thereon.

47 ~~C.~~(3) After the commission office has made and recorded a determination
48 that there is need, in the interest of the public health, safety, and
49 welfare, for the organization of a district in a particular territory
50 and has defined the boundaries thereof, it shall consider the question

1 whether the operation of a district within such boundaries with the
2 powers conferred upon soil conservation districts in this chapter is
3 administratively practicable and feasible. To assist the ~~commission~~ office
4 in the determination of such administrative practicability and feasibility,
5 it shall be the duty of the ~~commission~~ office, at the next election held
6 after entry of the finding that there is need for the organization of the
7 proposed district and the determination of the boundaries thereof, to hold
8 a referendum, subject to the provisions of section 34-106, Idaho Code,
9 within the proposed district upon the proposition of the creation of the
10 district, and to cause notice of such election to be given as provided in
11 section 34-1406, Idaho Code. The question shall be submitted by ballots upon
12 which the words "For creation of a soil conservation district of the lands
13 below described and lying in the county(ies) of and" and "Against
14 creation of a soil conservation district of the lands below described and
15 lying in the county(ies) of and" shall appear, with a square before
16 each proposition and a direction to insert an X mark in the square before one
17 or the other of said propositions as the voter may favor or oppose creation
18 of such district. The ballot shall set forth the boundaries of such proposed
19 district as determined by the ~~commission~~ office. All qualified electors who
20 own lands or reside within the proposed district shall be eligible to vote in
21 said referendum.

22 ~~D.~~ (4) The ~~commission~~ office shall pay all expenses for the issuance
23 of such notice and the conduct of such hearings and election, and shall
24 supervise the conduct of such hearings and election. It shall issue
25 appropriate regulations governing the conduct of such hearings and
26 election. No informalities in the conduct of the election or in any matter
27 relating thereto shall invalidate the election or the result thereof if
28 notice thereof shall have been given substantially as herein provided and
29 the election shall have been fairly conducted.

30 ~~E.~~ (5) The ~~commission~~ office shall publish the result of the election
31 and shall thereafter consider and determine whether the operation of the
32 district within the defined boundaries is administratively practicable and
33 feasible. If the ~~commission shall~~ office determines that the operation of
34 such district is not administratively practicable and feasible, it shall
35 record such determination and deny the petition. If the ~~commission shall~~
36 office determines that the operation of such district is administratively
37 practicable and feasible, it shall record such determination and shall
38 proceed with the organization of the district in the manner hereinafter
39 provided. In making such determination the ~~commission~~ office shall give
40 due regard and weight to the attitudes of the owners of lands lying within
41 the defined boundaries, the number of landowners and qualified electors
42 eligible to vote in the election who shall have voted, the proportion of
43 the votes cast in the election in favor of the creation of the district to
44 the total number of votes cast, the approximate wealth and income of the
45 landowners of the proposed district, the probable expense of carrying on
46 erosion control and other conservation operations within such district,
47 and such other economic and social factors as may be relevant to such
48 determination, having due regard to the legislative determination set forth
49 in section 22-2716, Idaho Code; provided, however, ~~that the~~ the ~~commission~~
50 office shall not have authority to determine that the operation of the

1 proposed district within the defined boundaries is administratively
2 practicable and feasible unless at least a majority of the votes cast in the
3 election upon the proposition of creation of the district shall have been
4 cast in favor of the creation of such district.

5 ~~F.~~ (6) If the ~~commission~~ office shall determine that the operation of
6 the proposed district within the defined boundaries is administratively
7 practicable and feasible, it shall appoint two (2) supervisors to act, with
8 the three (3) supervisors elected as provided hereinafter, as the governing
9 body of the district. Such district shall be a governmental subdivision of
10 this state and a public body corporate and politic, upon the taking of the
11 following proceedings:

12 (a) The two (2) appointed supervisors shall present to the secretary
13 of state an application signed by them which shall set forth (and such
14 application need contain no detail other than the mere recitals): ~~(1i)~~
15 that a petition for the creation of the district was filed with the
16 ~~state office of soil and water conservation commission~~ pursuant to the
17 provisions of this chapter, ~~7~~ and that the proceedings specified in this
18 chapter were taken pursuant to such petition; that the application is
19 being filed in order to complete the organization of the district as
20 a governmental subdivision and a public body, corporate and politic,
21 under this chapter; and that the ~~commission~~ office has appointed
22 them as supervisors; ~~(2ii)~~ the name and official residence of each of
23 the supervisors, together with a certified copy of the appointments
24 evidencing their right to office; ~~(3iii)~~ the term of office of each of
25 the supervisors; ~~(4iv)~~ the name which is proposed for the district;
26 and ~~(5v)~~ the location of the principal office of the supervisors of the
27 district. The application shall be subscribed and sworn to by each of
28 the said supervisors before an officer authorized by the laws of this
29 state to take and certify oaths, who shall certify upon the application
30 that he personally knows the supervisors and knows them to be the
31 officers as affirmed in the application, and that each has subscribed
32 thereto in the officer's presence.

33 (b) The application shall be accompanied by a statement by the ~~state~~
34 ~~office of soil and water conservation commission~~, which shall certify
35 (and such statement need contain no detail other than the mere recitals)
36 that a petition was filed, notice issued, ~~7~~ and hearing held as aforesaid;
37 that the ~~commission~~ office did duly determine that there is need,
38 in the interest of the public health, safety and welfare, for a soil
39 conservation district to function in the proposed territory and did
40 define the boundaries thereof; that notice was given and an election
41 held on the question of the creation of such district, and that the
42 result of the election showed a sixty per cent (60%) majority of
43 the votes cast in the election to be in favor of the creation of the
44 district; that thereafter the ~~commission~~ office did duly determine that
45 the operation of the proposed district is administratively practicable
46 and feasible. The said statement shall set forth the boundaries of the
47 district as they have been defined by the ~~commission~~ office.

48 (c) The secretary of state shall examine the application and statement
49 and, if he finds that the name proposed for the district is not identical
50 with that of any other soil conservation district of this state or so

1 nearly similar as to lead to confusion or uncertainty, he shall receive
2 and file them and shall record them in an appropriate book of record in
3 his office.

4 (d) If the secretary of state ~~shall~~ finds that the name proposed for
5 the district is identical with that of any other soil conservation
6 district of this state, or so nearly similar as to lead to confusion
7 and uncertainty, he shall certify such fact to the ~~state office of~~
8 soil and water conservation ~~commission~~ which shall thereupon submit
9 to the secretary of state a new name for the said district, which shall
10 not be subject to such defects. Upon receipt of such new name free of
11 such defects, the secretary of state shall record the application and
12 statement with the name so modified, in an appropriate book of record
13 in his office. When the application and statement have been made,
14 filed, and recorded, as herein provided, the district shall constitute
15 a governmental subdivision of this state and a public body corporate
16 and politic. The secretary of state shall make and issue to the said
17 supervisors a certificate under the seal of the state, of the due
18 organization of the said district, and shall record such certificate
19 with the application and statement. The boundaries of such district
20 shall include the territory as determined by the ~~state office of~~ soil
21 and water conservation ~~commission~~ as aforesaid, but in
22 no event shall they include any area included within the boundaries of
23 another soil conservation district organized under the provisions of
24 this ~~act~~ chapter except as provided in section 22-2720, Idaho Code.

25 ~~G.~~ (7) After six (6) months shall have expired from the date of entry of a
26 determination by the ~~state office of~~ soil and water conservation ~~commission~~
27 that operation of a proposed district is not administratively practicable
28 and feasible, and denial of a petition pursuant to such determination,
29 subsequent petitions may be filed as aforesaid, and action taken thereon in
30 accordance with the provisions of this chapter.

31 ~~H.~~ (8) Petitions for including additional territory within an existing
32 district may be filed with the ~~state office of~~ soil and water conservation
33 ~~commission~~ and the proceedings herein provided for in the case of petitions
34 to organize a district shall be observed in the case of petitions for
35 such inclusion. The ~~commission~~ office shall prescribe the form for such
36 petitions, which shall be as nearly as may be in the form prescribed in
37 this chapter for petitions to organize a district. Where the total number
38 of landowners in the area proposed for inclusion ~~shall be~~ is less than
39 twenty-five (25), the petition may be filed when signed by a two-thirds (2/3)
40 majority of the owners of such area, and in such case no election need be
41 held. In elections upon petitions for such inclusion, all owners of land
42 and qualified electors lying within the proposed additional area shall be
43 eligible to vote.

44 ~~I.~~ (9) Incorporated cities, not already included within a district,
45 may be included by presentation of a request of the district approved by
46 the governing body along with a request of the city approved by the mayor
47 and council, to the ~~state office of~~ soil and water conservation ~~commission~~.
48 The ~~commission~~ office shall consider and act on such joint request at the
49 earliest convenience. If the joint request is denied, the ~~commission~~ office
50 shall so notify the district and city in writing and state the reasons for

1 such denial. After six (6) months shall have expired from the date of denial
2 of such joint request, a subsequent joint request may again be made. If
3 the joint request is approved, the ~~commission office~~ shall then cause the
4 necessary papers to be filed with the secretary of state. This shall include
5 an amended legal description of the boundaries of the total district.

6 SECTION 5. That Section 22-2720, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR
9 EXISTING DISTRICTS. ~~(1-)~~ Petitions for consolidating two (2) or more
10 existing districts or for deleting territory from one or more existing
11 districts and adding the deleted territory to one or more existing districts
12 or incorporating the deleted territory into a new district or districts may
13 be filed with the ~~state office of soil and water conservation commission~~ on
14 such forms as may be prescribed by the ~~state soil conservation commission~~
15 ~~office~~.

16 ~~(2-)~~ The petitions provided for in subsection (1) of this section
17 shall be signed by twenty-five (25) landowners in the area proposed to
18 be consolidated or the area proposed to be deleted plus the district or
19 districts to which it is to be added or the territory which is to be included
20 in a new district or districts, as the case may be. Provided, however, ~~that~~
21 if two-thirds (2/3) of the landowners of all such territory total less than
22 twenty-five (25), then, ~~in that event~~, such lesser number of signatures will
23 suffice for the petition.

24 ~~(3-)~~ Within thirty (30) days after receipt of such a petition, the ~~state~~
25 ~~office of soil and water conservation commission~~ shall cause due notice of
26 hearing on the matter to be given in all of the areas concerned.

27 ~~(4-)~~ At the close of the hearing hereinbefore provided for, the ~~state~~
28 ~~office of soil and water conservation commission must~~ shall make and record
29 the following determinations:

30 ~~(a-)~~ Whether or not, in the opinion of the ~~commission office~~, the
31 proposal set forth by the petition would serve the public health, safety
32 and welfare.

33 ~~(b-)~~ Whether or not, in the opinion of the ~~commission office~~, the
34 proposal set forth by the petition is administratively practicable and
35 feasible.

36 ~~(5-)~~ If either or both of the determinations made under subsection
37 (4) of this section are in the negative, the matter is closed. Provided,
38 however, ~~that~~ after six (6) months have expired from the date of such
39 determination, a new petition may be filed involving substantially the same
40 proposals.

41 ~~(6-)~~ If both of the determinations made under subsection (4) of
42 this section are in the affirmative and if the proposal involves the
43 consolidation of two (2) or more existing districts or if the proposal
44 involves the deletion of territory from one (1) or more districts and the
45 addition of that territory to another existing district or districts,
46 then the ~~commission office~~ shall proceed to effect the change as per the
47 ~~commission's office's~~ determinations hereinbefore referred to. The ~~state~~
48 ~~soil conservation commission office~~ shall effect the change ~~here referred to~~

1 by filing with the secretary of state a sworn statement of a board member of
2 the ~~commission office~~ stating:

3 (a-) The name of the district or districts which are consolidated, if
4 any,

5 (b-) The name of the district or districts from which the territory is
6 deleted or added, if any, and

7 (c-) A description of the boundaries of the consolidated district or
8 of the territory remaining in the district or districts deleted from
9 and the district or districts added to, according to the ~~commission's~~
10 office's determination hereinbefore referred to.

11 From and after the time of filing of such statement with the secretary
12 of state, the changes will be effective. If the name of a district formed by
13 the consolidation of two (2) or more existing districts differs from that of
14 either of the consolidated districts, the secretary of state shall issue and
15 record a new certificate of organization of said district.

16 (7-) The office of any district supervisor is hereby declared to be
17 vacant, when, after the deletion of territory, such district supervisor is
18 no longer a landowner within the district deleted from.

19 (8-) If both of the determinations made under subsection (4) of this
20 section are in the affirmative and if the proposal involves the addition of
21 territory ~~deleted [deleted] deleted~~ from one (1) or more existing districts
22 to other territory thus forming a new district, a referendum shall be held
23 and other procedures followed as in cases involving the original formation
24 of a district where no existing district is involved. In such a case, due
25 notice shall be given in the area which may comprise the new district.

26 (9-) If a new district is formed under the procedure prescribed in
27 subsection (8) of this section, part of the area which is composed of an old
28 district, the ~~state office of soil and water conservation commission~~ shall
29 cause to be filed with the secretary of state a sworn statement of a board
30 member of the ~~commission office~~ stating:

31 (a-) The name of the district or districts deleted from 7; and

32 (b-) A description of the boundaries of the territory remaining in the
33 district or districts deleted from.

34 From and after the time of filing of such statement with the secretary
35 of state, the change in the boundaries of the existing districts shall be
36 effective.

37 SECTION 6. That Section 22-2721, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
40 SUPERVISORS. **[EFFECTIVE UNTIL JANUARY 1, 2011]** (1) The governing body of
41 the district shall consist of five (5) supervisors, elected or appointed
42 as provided in this chapter. Elections shall be conducted pursuant to the
43 provisions of this section and the uniform district election law, chapter
44 14, title 34, Idaho Code. If at any time the supervisors of a district deem
45 it necessary, they may request permission from the ~~state office of soil~~
46 and water conservation ~~commission~~ to increase the number of supervisors to
47 seven (7). Upon receipt of such a request in writing, signed by all five (5)
48 supervisors, stating a valid reason for such need, the ~~commission office~~

1 shall grant permission. The additional supervisors shall then be appointed
2 as outlined in ~~subparagraph C.~~ subsection (5) of this section until such time
3 as regular district elections for two (2) supervisors in each district. At
4 that time those districts having seven (7) supervisors shall then elect four
5 (4) supervisors for four (4) year terms. The two (2) supervisors appointed
6 by the ~~commission office~~ shall be persons who are by training and experience
7 qualified to perform the specialized services which will be required of them
8 in the performance of their duties. All supervisors shall be landowners or
9 farmers of the district where they are elected or appointed.

10 ~~A.~~ (2) Within thirty (30) days after the date of issuance by the
11 secretary of state of a certificate of organization of a soil conservation
12 district, nominating petitions may be filed with the ~~state office of~~ soil
13 and water conservation ~~commission~~ to nominate candidates for supervisors
14 of each district. The office of soil and water conservation ~~commission~~,
15 unless it has contracted with the county clerk to conduct the election, shall
16 designate an individual to act as the election official. If contracted to
17 do so, the county clerk shall act as the election official. The election
18 official shall have authority to extend the time within which nominating
19 petitions may be filed. No such nominating petition shall be accepted by
20 the election official unless it shall be subscribed by not less than five
21 (5) persons who are qualified electors owning land or residing within the
22 boundaries of the district. The election official shall give due notice of
23 an election to be held, subject to the provisions of section 34-106, Idaho
24 Code, for the election of three (3) supervisors for the district. The names
25 of all nominees on behalf of whom such nominating petitions have been filed
26 within the time herein designated, shall appear arranged in the alphabetical
27 order of the surnames, upon ballots, with a square before each name and
28 directions to insert a mark in the square before any three (3) names to
29 indicate the voter's preference. The three (3) candidates who shall receive
30 the largest number, respectively, of the votes cast in such election shall be
31 the elected supervisors for such district. The ~~commission office~~ shall pay
32 all the expenses of such election, which shall be supervised and conducted
33 by the election official.

34 ~~B.~~ (3) All elections in districts, excluding the first election as
35 provided in ~~subparagraph A.~~ subsection (2) of this section, shall be
36 conducted by the district supervisors of the districts involved who shall
37 designate an individual to be the election official, or the county clerk
38 if contracted for that purpose. Such election shall be held on the first
39 Tuesday succeeding the first Monday of November in each even-numbered
40 year. Such elections shall be in compliance with the provisions of chapter
41 14, title 34, Idaho Code, and shall be supervised and conducted by the
42 election official. The cost of conducting such elections shall be borne
43 by the district involved. The election official shall certify to the
44 ~~state office of soil and water~~ conservation ~~commission~~ the names of the
45 elected supervisors. The ~~state office of soil and water~~ conservation
46 ~~commission~~ shall issue certificates of election to each elected supervisor
47 so certified. The ~~state office of soil and water~~ conservation ~~commission~~
48 may authorize each district to contract with the county clerk or county
49 clerks of the county or counties in which the district is located to conduct
50 the election for the soil conservation district. If a district election is

1 conducted by a county clerk, the county clerk must provide a ballot for the
2 district election, and must provide a process that allows only qualified
3 electors of the district to vote in that district's election.

4 (4) In any election for supervisor, if after the deadline for filing a
5 declaration of intent as a write-in candidate, it appears that the number
6 of qualified candidates who have been nominated is equal to the number of
7 supervisors to be elected, it shall not be necessary for the candidates
8 to stand for election, and the board of supervisors shall declare such
9 candidates elected as supervisors, and the state office of soil and water
10 conservation commission shall immediately make and deliver to such persons
11 certificates of election.

12 ~~C.~~(5) In any election for supervisors of a soil conservation district,
13 if after the expiration of the date for filing written nominations it appears
14 that only one (1) qualified candidate has been nominated for each position to
15 be filled and no declaration of intent has been filed by a write-in candidate
16 as provided in ~~subparagraph D.~~ subsection (6) of this section, it shall not
17 be necessary to hold an election, and the election official shall, no later
18 than seven (7) days before the scheduled date of the election, declare such
19 candidate elected as supervisor, and the state office of soil and water
20 conservation commission shall immediately make and deliver to such person a
21 certificate of election.

22 ~~D.~~(6) No write-in vote for supervisor shall be counted unless a
23 declaration of intent has been filed with the election official indicating
24 that the person making the declaration desires the office and is legally
25 qualified to assume the duties of supervisor if elected as a write-in
26 candidate. The declaration of intent shall be filed not later than
27 twenty-five (25) days before the day of election.

28 ~~E.~~(7) The supervisors shall designate a chairman and may, from time
29 to time, change such designation. The term of office of each supervisor
30 shall be four (4) years commencing on the first day of January next following
31 election, except that the two (2) supervisors who are first appointed shall
32 be designated to serve for terms of two (2) years. A supervisor shall hold
33 office until a qualified successor has been elected or appointed. Vacancies
34 shall be filled for the unexpired term. The selection of successors to fill
35 an unexpired term, or for a full term shall be made by a vote of the majority
36 of the supervisors duly qualified and acting at the time the vacancy shall
37 arise and the supervisors shall certify the name of the appointed supervisor
38 to the state office of soil and water conservation commission ~~who~~ which shall
39 issue a certificate of such appointment.

40 ~~F.~~(8) A majority of the supervisors shall constitute a quorum and
41 the concurrence of a majority in any matter within their duties shall be
42 required for its determination. A supervisor shall be entitled to expenses,
43 including travel expense, necessarily incurred in the discharge of duties.
44 A supervisor shall receive no compensation for services from regular
45 district funds, county funds authorized in section 22-2726, Idaho Code, or
46 state funds authorized in section 22-2727, Idaho Code.

47 (9) In the event the district has a special project, approved by the
48 state office of soil and water conservation commission, making project
49 funds available from federal or other sources, a supervisor may receive
50 compensation not to exceed thirty-five dollars (\$35.00) per day plus actual

1 and necessary expenses from project funds for services directly related to
2 the project.

3 (10) The supervisors may employ a secretary, technical experts, and
4 such other officers, agents, and employees, permanent and temporary as
5 they may require, and shall determine their qualifications, duties and
6 compensation. The supervisors may call upon the attorney general of the
7 state for such legal services as they may require or may employ their own
8 counsel and legal staff. The supervisors may delegate to their chairman,
9 to one (1) or more supervisors, or to one (1) or more agents, or employees,
10 such powers and duties as they may deem proper. The supervisors shall
11 furnish to the state office of soil and water conservation commission, upon
12 request, copies of such ordinances, rules, orders, contracts, forms and
13 other documents as they shall adopt or employ, and such other information
14 concerning ~~their~~ the supervisors' activities as ~~it~~ the office may require in
15 the performance of ~~its~~ the office's duties under this chapter.

16 (11) The supervisors shall provide for the execution of surety bonds for
17 all employees and officers who shall be entrusted with funds or property;
18 they shall provide for the keeping of a full and accurate record of all
19 proceedings and of all resolutions, and orders issued or adopted; and shall
20 provide for independent financial audits in accordance with the provisions
21 of section 67-450B, Idaho Code, ~~with the exception of the provisions of~~
22 ~~subsection (2)(d) of section 67-450B, Idaho Code. The governing body of a~~
23 ~~district whose annual budget from all sources does not exceed fifty thousand~~
24 ~~dollars (\$50,000) may elect to have its financial statements reviewed on a~~
25 ~~biennial basis. Biennial reports of review shall include a review of each~~
26 ~~fiscal year since the previous review report.~~ Any supervisor may be removed
27 by the state office of soil and water conservation commission upon notice
28 and hearing, for neglect of duty or malfeasance in office, but for no other
29 reason.

30 (12) The supervisors may invite the legislative body of a municipality
31 or county located near the territory comprised within the district to
32 designate a representative to advise and consult with the supervisors of
33 the district on all questions of program and policy which may affect the
34 property, water supply, or other interests of such municipality or county.

35 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
36 SUPERVISORS. **[EFFECTIVE JANUARY 1, 2011]** (1) The governing body of the
37 district shall consist of five (5) supervisors, elected or appointed as
38 provided in this chapter. Elections shall be conducted pursuant to the
39 provisions of this section and the uniform district election law, chapter
40 14, title 34, Idaho Code. If at any time the supervisors of a district deem
41 it necessary, they may request permission from the state office of soil
42 and water conservation commission to increase the number of supervisors to
43 seven (7). Upon receipt of such a request in writing, signed by all five (5)
44 supervisors, stating a valid reason for such need, the commission office
45 shall grant permission. The additional supervisors shall then be appointed
46 as outlined in subsection ~~C.~~ (5) of this section until such time as regular
47 district elections for two (2) supervisors in each district. At that time
48 those districts having seven (7) supervisors shall then elect four (4)
49 supervisors for four (4) year terms. The two (2) supervisors appointed by
50 the commission office shall be persons who are by training and experience

1 qualified to perform the specialized services which will be required of them
2 in the performance of their duties. All supervisors shall be landowners or
3 farmers of the district where they are elected or appointed.

4 ~~A.~~ (2) Within thirty (30) days after the date of issuance by the
5 secretary of state of a certificate of organization of a soil conservation
6 district, nominating petitions may be filed with the ~~state office of soil~~
7 ~~and water~~ conservation ~~commission~~ to nominate candidates for supervisors of
8 each district. The county clerk shall conduct the election for the district
9 and shall be the election official for the district. The election official
10 shall have authority to extend the time within which nominating petitions
11 may be filed. No such nominating petition shall be accepted by the election
12 official unless it shall be subscribed by not less than five (5) persons
13 who are qualified electors owning land or residing within the boundaries of
14 the district. The election official shall give due notice of an election
15 to be held, subject to the provisions of section 34-106, Idaho Code, for
16 the election of three (3) supervisors for the district. The names of all
17 nominees on behalf of whom such nominating petitions have been filed within
18 the time herein designated, shall appear upon ballots, with directions to
19 choose three (3) names to indicate the voter's preference. The three (3)
20 candidates who shall receive the largest number, respectively, of the votes
21 cast in such election shall be the elected supervisors for such district.
22 The ~~commission office~~ shall pay all the expenses of such election, which
23 shall be supervised and conducted by the election official.

24 ~~B.~~ (3) All elections in districts shall be conducted by the county
25 clerk. Such election shall be held on the first Tuesday succeeding the first
26 Monday of November in each even-numbered year. Such elections shall be in
27 compliance with the provisions of chapter 14, title 34, Idaho Code, and shall
28 be supervised and conducted by the county clerk. The cost of conducting such
29 elections shall be borne by the county that conducted the election. The
30 county clerk shall certify to the ~~state office of soil and water~~ conservation
31 ~~commission~~ the names of the elected supervisors. The ~~state office of soil~~
32 ~~and water~~ conservation ~~commission~~ shall issue certificates of election to
33 each elected supervisor so certified. The county clerk or county clerks
34 of the county or counties in which the district is located shall conduct
35 the election for the soil conservation district, and the county clerk must
36 provide a ballot for the district election, and must provide a process that
37 allows only qualified electors of the district to vote in that district's
38 election.

39 (4) In any election for supervisor, if after the deadline for filing a
40 declaration of intent as a write-in candidate, it appears that the number
41 of qualified candidates who have been nominated is equal to the number of
42 supervisors to be elected, it shall not be necessary for the candidates
43 to stand for election, and the board of supervisors shall declare such
44 candidates elected as supervisors, and the ~~state office of soil and water~~
45 conservation ~~commission~~ shall immediately make and deliver to such persons
46 certificates of election.

47 ~~C.~~ (5) In any election for supervisors of a soil conservation district,
48 if after the expiration of the date for filing written nominations it appears
49 that only one (1) qualified candidate has been nominated for each position to
50 be filled and no declaration of intent has been filed by a write-in candidate

1 as provided in subsection ~~D.~~ (6) of this section, it shall not be necessary
2 to hold an election, and the county clerk shall, no later than seven (7) days
3 before the scheduled date of the election, declare such candidate elected as
4 supervisor, and the state office of soil and water conservation ~~commission~~
5 shall immediately make and deliver to such person a certificate of election.

6 ~~D.~~ (6) No write-in vote for supervisor shall be counted unless a
7 declaration of intent has been filed with the county clerk indicating
8 that the person making the declaration desires the office and is legally
9 qualified to assume the duties of supervisor if elected as a write-in
10 candidate. The declaration of intent shall be filed not later than
11 twenty-five (25) days before the day of election.

12 ~~E.~~ (7) The supervisors shall designate a chairman and may, from time
13 to time, change such designation. The term of office of each supervisor
14 shall be four (4) years commencing on the first day of January next following
15 election, except that the two (2) supervisors who are first appointed shall
16 be designated to serve for terms of two (2) years. A supervisor shall hold
17 office until a qualified successor has been elected or appointed. Vacancies
18 shall be filled for the unexpired term. The selection of successors to fill
19 an unexpired term, or for a full term shall be made by a vote of the majority
20 of the supervisors duly qualified and acting at the time the vacancy shall
21 arise and the supervisors shall certify the name of the appointed supervisor
22 to the state office of soil and water conservation ~~commission~~ which shall
23 issue a certificate of such appointment.

24 ~~F.~~ (8) A majority of the supervisors shall constitute a quorum and
25 the concurrence of a majority in any matter within their duties shall be
26 required for its determination. A supervisor shall be entitled to expenses,
27 including travel expense, necessarily incurred in the discharge of duties.
28 A supervisor shall receive no compensation for services from regular
29 district funds, county funds authorized in section 22-2726, Idaho Code, or
30 state funds authorized in section 22-2727, Idaho Code.

31 (9) In the event the district has a special project, approved by the
32 state office of soil and water conservation ~~commission~~, making project
33 funds available from federal or other sources, a supervisor may receive
34 compensation not to exceed thirty-five dollars (\$35.00) per day plus actual
35 and necessary expenses from project funds for services directly related to
36 the project.

37 (10) The supervisors may employ a secretary, technical experts, and
38 such other officers, agents, and employees, permanent and temporary as
39 they may require, and shall determine their qualifications, duties and
40 compensation. The supervisors may call upon the attorney general of the
41 state for such legal services as they may require or may employ their own
42 counsel and legal staff. The supervisors may delegate to their chairman,
43 to one (1) or more supervisors, or to one (1) or more agents, or employees,
44 such powers and duties as they may deem proper. The supervisors shall
45 furnish to the state office of soil and water conservation ~~commission~~, upon
46 request, copies of such ordinances, rules, orders, contracts, forms and
47 other documents as they shall adopt or employ, and such other information
48 concerning ~~their~~ the supervisors' activities as ~~it~~ the office may require in
49 the performance of ~~its~~ the office's duties under this chapter.

(11) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for independent financial audits in accordance with the provisions of section 67-450B, Idaho Code, ~~with the exception of the provisions of subsection (2) (d) of section 67-450B, Idaho Code. The governing body of a district whose annual budget from all sources does not exceed fifty thousand dollars (\$50,000) may elect to have its financial statements reviewed on a biennial basis. Biennial reports of review shall include a review of each fiscal year since the previous review report.~~ Any supervisor may be removed by the state office of soil and water conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

(12) The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

SECTION 7. That Section 22-2723, Idaho Code, be, and the same is hereby amended to read as follows:

22-2723. COOPERATION BETWEEN DISTRICTS. The supervisors of any two (2) or more districts organized under the provisions of this ~~act~~ chapter may cooperate with one another in the exercise of any or all powers conferred in this act.

SECTION 8. That Section 22-2724, Idaho Code, be, and the same is hereby amended to read as follows:

22-2724. STATE AGENCIES TO COOPERATE. Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this ~~act~~ chapter. The supervisors of such district shall be given free access to enter and perform work upon such publicly owned lands.

SECTION 9. That Section 22-2725, Idaho Code, be, and the same is hereby amended to read as follows:

22-2725. DISCONTINUANCE OF DISTRICTS. **[EFFECTIVE UNTIL JANUARY 1, 2011]** (1) At any time after five (5) years after the organization of a district under the provisions of this chapter, any twenty-five (25) owners of land lying within the boundaries of such district may file a

1 petition with the ~~state~~ office of soil and water conservation ~~commission~~
2 ~~praying requesting~~ that the operations of the district be terminated and
3 the existence of the district discontinued. The ~~commission~~ office may
4 conduct such public meetings~~7~~ and public hearings upon such petition as may
5 be necessary to assist it in the consideration thereof. Within sixty (60)
6 days after such petition has been received by the ~~commission~~ office it shall
7 give due notice of the holding of an election, subject to the provisions
8 of section 34-106, Idaho Code, and shall supervise the election~~7~~ and issue
9 appropriate regulations governing such election as are consistent with
10 chapter 14, title 34, Idaho Code, the question to be submitted by ballots
11 upon which the words "For terminating the existence of the (name of
12 the soil conservation district to be here inserted)" shall appear, with a
13 square before each proposition and a direction to insert an X mark in the
14 square before one or the other of said propositions as the voter may favor
15 or oppose discontinuance of such district. All qualified electors who own
16 land or reside within the proposed district shall be eligible to vote in said
17 election. No informalities in the conduct of the election or in any matters
18 relating thereto shall invalidate the election or the result thereof if
19 notice thereof shall have been given substantially as herein provided and
20 the election shall have been fairly conducted.

21 (2) The ~~commission~~ office shall publish the result of the election and
22 shall thereafter consider and determine whether the continued operation of
23 the district within the defined boundaries is administratively practicable
24 and feasible. If the ~~commission shall~~ office determines that the continued
25 operation of such district is administratively practicable and feasible,
26 it shall record such determination and deny ~~this~~ the petition. If the
27 ~~commission shall~~ office determines that the continued operation of such
28 district is not administratively practicable and feasible, it shall
29 record such determination and shall certify such determination to the
30 supervisors of the district. In making such determination the ~~commission~~
31 office shall give due regard and weight to the attitudes of the owners
32 of lands lying within the district, the number of landowners eligible to
33 vote in the election who shall have voted, the proportion of the votes
34 cast in the election in favor of the discontinuance of the district to
35 the total number of votes cast, the approximate wealth and income of the
36 landowners of the district, the probable expense of carrying on such
37 erosion-control operations within such district~~7~~ and such other economic
38 and social factors as may be relevant to such determination, having due
39 regard to the legislative findings set forth in section 22-2716, Idaho Code,
40 provided~~7~~ however, that the ~~commission~~ office shall not have authority to
41 determine that the continued operation of the district is administratively
42 practicable and feasible unless at least a majority of the votes cast in the
43 election shall have been cast in favor of the continuance of such district.

44 (3) Upon receipt from the ~~state~~ office of soil and water conservation
45 ~~commission~~ of a certificate that the ~~commission~~ office has determined that
46 the continued operation of the district is not administratively practicable
47 and feasible~~7~~ pursuant to the provisions of this section, the supervisors
48 shall forthwith proceed to terminate the affairs of the district. The
49 supervisors shall dispose of all property belonging to the district at
50 public auction and shall pay over the proceeds of such sale to be covered into

1 the state treasury. The supervisors shall thereupon file an application
2 duly verified, with the secretary of state for the discontinuance of such
3 district, and shall transmit with such application the certificate of the
4 ~~state office of soil and water conservation commission~~ setting forth the
5 determination of the ~~commission office~~ that the continued operation of such
6 district is not administratively practicable and feasible. The application
7 shall recite that the property of the district has been disposed of and the
8 proceeds paid over as in this section provided, and shall set forth a full
9 accounting of such properties and proceeds of the sale. The secretary of
10 state shall issue to the supervisors a certificate of dissolution and shall
11 record such certificate in an appropriate book of record in his office.

12 (4) Upon issuance of a certificate of dissolution under the provisions
13 of this section, all contracts theretofore entered into, to which the
14 district or supervisors are parties, shall remain in force and effect
15 for the period provided in such contracts. The ~~state office of soil and~~
16 ~~water conservation commission~~ shall be substituted for the district or
17 supervisors as party to such contracts.

18 (5) The ~~state office of soil and water conservation commission~~ shall
19 not entertain petitions for the discontinuance of any district nor conduct
20 elections upon such petitions nor make determinations pursuant to such
21 petitions in accordance with the provisions of this chapter, more often than
22 once in five (5) years.

23 22-2725. DISCONTINUANCE OF DISTRICTS. **[EFFECTIVE JANUARY 1, 2011]** (1)
24 At any time after five (5) years after the organization of a district under
25 the provisions of this chapter, any twenty-five (25) owners of land lying
26 within the boundaries of such district may file a petition with the ~~state~~
27 ~~office of soil and water conservation commission~~ praying requesting that the
28 operations of the district be terminated and the existence of the district
29 discontinued. The ~~commission office~~ may conduct such public meetings, and
30 public hearings upon such petition as may be necessary to assist it in the
31 consideration thereof. Within sixty (60) days after such petition has been
32 received by the ~~commission office~~, it shall give due notice to the county
33 clerk of the holding of an election, subject to the provisions of section
34 34-106, Idaho Code, and the county clerk shall supervise the election, and
35 issue appropriate regulations governing such election as are consistent
36 with chapter 14, title 34, Idaho Code, the question to be submitted by
37 ballots upon which the words "For terminating the existence of the
38 (name of the soil conservation district to be here inserted)" shall appear,
39 with a square before each proposition and a direction to mark the ballot as
40 the voter may favor or oppose discontinuance of such district. All qualified
41 electors who reside within the proposed district shall be eligible to vote
42 in said election. No informalities in the conduct of the election or in any
43 matters relating thereto shall invalidate the election or the result thereof
44 if notice thereof shall have been given substantially as herein provided and
45 the election shall have been fairly conducted.

46 (2) The ~~commission office~~ shall publish the result of the election and
47 shall thereafter consider and determine whether the continued operation of
48 the district within the defined boundaries is administratively practicable
49 and feasible. If the ~~commission shall~~ office determines that the continued
50 operation of such district is administratively practicable and feasible,

1 it shall record such determination and deny ~~this~~ the petition. If the
2 ~~commission shall~~ office determines that the continued operation of such
3 district is not administratively practicable and feasible, it shall record
4 such determination and shall certify such determination to the supervisors
5 of the district. In making such determination the ~~commission~~ office shall
6 give due regard and weight to the attitudes of the owners of lands lying
7 within the district, the number of residents eligible to vote in the election
8 who shall have voted, the proportion of the votes cast in the election in
9 favor of the discontinuance of the district to the total number of votes
10 cast, the approximate wealth and income of the landowners of the district,
11 the probable expense of carrying on such erosion-control operations within
12 such district, and such other economic and social factors as may be relevant
13 to such determination, having due regard to the legislative findings set
14 forth in section 22-2716, Idaho Code, provided, however, that the ~~commission~~
15 office shall not have authority to determine that the continued operation of
16 the district is administratively practicable and feasible unless at least a
17 majority of the votes cast in the election shall have been cast in favor of
18 the continuance of such district.

19 (3) Upon receipt from the ~~state office of soil and water conservation~~
20 ~~commission~~ of a certificate that the ~~commission~~ office has determined that
21 the continued operation of the district is not administratively practicable
22 and feasible, pursuant to the provisions of this section, the supervisors
23 shall forthwith proceed to terminate the affairs of the district. The
24 supervisors shall dispose of all property belonging to the district at
25 public auction and shall pay over the proceeds of such sale to be covered into
26 the state treasury. The supervisors shall thereupon file an application
27 duly verified, with the secretary of state for the discontinuance of such
28 district, and shall transmit with such application the certificate of the
29 ~~state office of soil and water conservation commission~~
30 office setting forth the determination of the ~~commission~~ office that the continued operation of such
31 district is not administratively practicable and feasible. The application
32 shall recite that the property of the district has been disposed of and the
33 proceeds paid over as in this section provided, and shall set forth a full
34 accounting of such properties and proceeds of the sale. The secretary of
35 state shall issue to the supervisors a certificate of dissolution and shall
36 record such certificate in an appropriate book of record in his office.

37 (4) Upon issuance of a certificate of dissolution under the provisions
38 of this section, all contracts theretofore entered into, to which the
39 district or supervisors are parties, shall remain in force and effect
40 for the period provided in such contracts. The ~~state office of soil and~~
41 ~~water conservation commission~~ shall be substituted for the district or
42 supervisors as party to such contracts.

43 (5) The ~~state office of soil and water conservation commission~~
44 shall not entertain petitions for the discontinuance of any district nor conduct
45 elections upon such petitions nor make determinations pursuant to such
46 petitions in accordance with the provisions of this chapter, more often than
47 once in five (5) years.

48 SECTION 10. That Section 22-2727, Idaho Code, be, and the same is hereby
49 amended to read as follows:

22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall be held by the ~~Idaho~~ office of soil and water conservation ~~commission~~ on or before June 15 of each year and twenty (20) days' written notice of such hearing shall be given to each Idaho soil conservation district and to all other persons requesting notice of such hearing. At the hearing the ~~Idaho~~ office of soil and water conservation ~~commission~~ shall consider the needs of each Idaho soil conservation district and shall base its request for state funds for the Idaho soil conservation districts upon the budgets, budget requests, district programs and work plans, and work load analysis of the various soil conservation districts.

(2) All funds appropriated by the state for the various Idaho soil conservation districts shall be appropriated to the ~~Idaho~~ office of soil and water conservation ~~commission~~ and shall be allocated by the office of soil and water conservation equally to the various Idaho soil conservation districts on the basis of the criteria established in the preceding paragraph.

(3) Funds appropriated to the ~~Idaho~~ office of soil and water conservation ~~commission~~ for distribution to soil conservation districts shall be allocated by the office of soil and water conservation equally to the various soil conservation districts in a sum not to exceed five eight thousand five hundred dollars (\$~~58,050~~0) per district. All funds appropriated to the office of soil and water conservation ~~commission~~ for distribution to soil conservation districts in excess of five eight thousand five hundred dollars (\$~~58,050~~0) per district shall be allocated by the office to the various soil conservation districts in a sum not to exceed twice the amount of funds or services allocated to each district by the county commissioners in the previous fiscal year and funds or services allocated to each district by authorized officials or other local units of government or organizations in the previous fiscal year, provided that any such allocation by the office shall not exceed fifty thousand dollars (\$50,000) to any one (1) district in a fiscal year.

(4) The ~~Idaho~~ office of soil and water conservation ~~commission~~ shall adopt ~~all rules and regulations~~ necessary to carry out the purposes of this section.

SECTION 11. That Section 22-2730, Idaho Code, be, and the same is hereby amended to read as follows:

22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND CREATED. (1) There is hereby created in the state treasury a fund to be known as the Idaho resource conservation and rangeland development fund, which shall consist of all moneys which may be appropriated to it by the legislature or made available to it from federal, private, or other sources. The state treasurer is directed to invest all unobligated moneys in the fund. All interest and other income accruing from such investments shall accrue to the fund. The ~~state~~ office of soil and water conservation ~~commission~~ may expend from the fund such sums as it shall deem necessary for any of the conservation improvements, projects and programs provided for under this chapter under such terms and conditions provided for in ~~its~~ the office's rules and the water quality program for agriculture.

(2) The ~~state office of~~ soil and water conservation commission shall establish a priority list for conservation improvements, projects and the water quality program for agriculture. The priority list shall be used as the method for allocation of funds loaned under this chapter.

SECTION 12. That Section 22-2731, Idaho Code, be, and the same is hereby amended to read as follows:

22-2731. ALLOCATION OF FUND. The Idaho resource conservation and rangeland development fund shall be allocated for use by the office of soil and water conservation:

(1) ~~By the state soil conservation commission~~ To eligible applicants for conservation improvements which it deems to be "in the public interest" in such amounts as are necessary for the implementation of conservation measures identified in a conservation plan;

(2) ~~By the commission~~ To eligible applicants for the purpose of conservation improvements on rangelands, agricultural lands, and riparian lands, which will provide environmental enhancement to soil, water, wildlife, and related resources;

(3) ~~By the commission~~ For the purpose of implementing conservation improvements, projects and the water quality program for agriculture.

SECTION 13. That Section 22-2732, Idaho Code, be, and the same is hereby amended to read as follows:

22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. ~~(a)~~ Eligible applicants may file an application with the ~~local soil conservation district or the state office of~~ soil and water conservation commission for a loan from the fund for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the commission office. Any such application filed with the ~~district or the commission office~~ under the provisions of this act chapter shall:

~~(1a)~~ Describe the nature and purposes of the improvements or projects;

~~(2b)~~ Set forth or be accompanied by a conservation plan approved by the local soil conservation district ~~or the commission~~ that identifies the conservation improvements, or projects, together with such technical and economic feasibility data and estimated costs as may be required by the commission office;

~~(3c)~~ State whether money other than that for which application is made under this act chapter will be used for improvement costs, and whether such money is available or has been sought for this purpose;

~~(4d)~~ Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way for the improvements; and

~~(5e)~~ Show the proposed project is feasible from a technical standpoint and economically justified.

~~(b)~~ Within sixty (60) days of receipt of an application, the ~~local soil conservation district or the commission office~~, in consultation with the local soil and water conservation district, shall review and evaluate, and if it deems necessary, investigate aspects of the proposed improvements.

As part of such investigation, the district or the ~~commission office~~ shall determine whether the plan for development of the conservation improvements is satisfactory. If the district or the ~~commission office~~ determines the plan is unsatisfactory, ~~it~~ the office shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district or the ~~commission office~~ determines the plan ~~and application are~~ is satisfactory ~~and the office determines that the application is satisfactory~~, it shall be considered for funding.

(e3) The ~~commission office~~ may approve a loan for conservation improvements if after review, evaluation, and investigation if necessary, it finds that:

(1a) The applicant is qualified and responsible;

(2b) There is reasonable assurance that the borrower can repay the loan; and

(3c) That money in the resource conservation and rangeland development fund is available for the loan.

(d4) If the ~~commission office~~ approves a loan, the applicant shall execute a promissory note for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the ~~commission office~~. The note shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the note is signed. Repayment shall be completed within the time period specified by the ~~commission office~~ not to exceed fifteen (15) years, except that the ~~commission office~~ may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance of, and security for, repayment of the loan as are considered necessary by the ~~commission office~~.

(e5) Upon the office's approval of the loan and securing all necessary documents, the ~~commission office~~ will make available, in approved form, project or contract funding.

(f6) If an applicant fails to comply with the repayment contract, the interest in the improvement may be conveyed to a successor upon approval by the ~~commission office~~, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with interest thereon, and for succession to its rights and obligation in any contract with the ~~commission office~~.

SECTION 14. That Section 22-2733, Idaho Code, be, and the same is hereby amended to read as follows:

22-2733. GRANTS FROM ~~STATE SOIL CONSERVATION COMMISSION OFFICE OF SOIL AND WATER CONSERVATION GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT~~. (1) Eligible applicants or participants may file an application with the ~~local soil conservation district or the state~~ office of soil and water conservation ~~commission~~ for a grant from the ~~state office of soil and water~~ conservation ~~commission~~ general fund for the purpose of financing conservation improvements, projects, and implementation of the water quality program for agriculture. Such application shall be filed in such a manner and shall be in such form, and be accompanied by such information

1 as may be prescribed by the ~~commission office~~; provided, however, that any
2 such application filed with the ~~district or the commission office~~ under the
3 provisions of this section shall:

4 (a) Describe the nature and purpose of the improvements or conservation
5 plan implementation project;

6 (b) Set forth or be accompanied by an improvement project plan
7 approved by the local soil conservation district ~~or the commission~~ that
8 identifies the practices to be applied, together with such technical
9 and economic feasibility data and estimated costs as may be required by
10 the ~~commission office~~;

11 (c) State whether money other than that for which application is made
12 under this section will be used for improvement project or conservation
13 plan implementation costs, and whether such money is available or has
14 been sought for this purpose; and

15 (d) Show that the applicant or participant holds or can acquire title to
16 all lands or has necessary easements and rights-of-way to implement the
17 project plan.

18 (2) The ~~commission and office of soil and water conservation~~ shall
19 keep the local soil conservation districts will keep each other informed
20 of grant applications received. Within thirty (30) days of receipt of
21 an application, the ~~local soil conservation district or the commission~~
22 office, in consultation with the local soil conservation district, shall
23 review and evaluate and, if deemed necessary, investigate all aspects
24 of the proposed improvement, project or conservation plan. As part of
25 such investigation, the district or the ~~commission office~~ shall determine
26 whether the project plan is satisfactory. If the district or the ~~commission~~
27 office determines that the plan is unsatisfactory, ~~it~~ the office shall
28 return the application to the applicant or participant and the district or
29 the ~~commission office~~ may make such recommendations to the applicant or
30 participant as are considered necessary to make the plan satisfactory. If
31 the ~~commission office~~ determines either the plan or a plan revised pursuant
32 to recommendation of the district or ~~commission office~~ is satisfactory, it
33 shall be considered for funding.

34 (3) The ~~commission office~~ may approve a grant if after review,
35 evaluation, and investigation if necessary, it finds that:

36 (a) The applicant or participant is qualified and responsible;

37 (b) The improvement, project, or conservation plan demonstrates public
38 benefits; and

39 (c) That money in the ~~state office of soil and water conservation~~
40 commission general fund is available for the grant.

41 (4) If the ~~commission office~~ approves a grant, the applicant or
42 participant shall enter into an agreement covering the grant offer and
43 acceptance of the grant for implementing the improvement, project, or
44 conservation plan. The agreement shall be improvement, project, or
45 conservation plan specific. The terms and conditions shall be those
46 specified by the ~~commission office~~.

47 (5) Upon approval of the grant and securing all necessary documents,
48 the ~~commission office~~ will make available, in the approved form, project or
49 contract funding.

1 SECTION 15. That Section 22-2734, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-2734. COST-SHARE FROM ~~STATE~~ OFFICE OF SOIL AND WATER CONSERVATION
4 ~~COMMISSION~~ GENERAL FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants
5 or participants may file an application with the ~~local soil conservation~~
6 ~~district or the state~~ office of soil and water conservation ~~commission~~
7 for a cost-share contract or project from the ~~state~~ office of soil and
8 water conservation ~~commission~~ general fund for the purpose of financing
9 agricultural, grazing or other conservation improvements, projects
10 or implementation of the water quality program for agriculture. Such
11 application shall be filed in such a manner and shall be in such form and
12 be accompanied by such information as may be prescribed by the ~~commission~~
13 office; provided however, that any such application filed with the ~~district~~
14 ~~or the commission~~ office under the provisions of this section shall:

15 (a) Describe the nature and purposes of the improvements and projects
16 requiring cost-sharing;

17 (b) Set forth or be accompanied by a plan that identifies the
18 conservation improvements or projects, together with such technical
19 and economic feasibility data and estimated costs as may be required by
20 the ~~commission~~ office;

21 (c) State whether money other than that for which application is made
22 under this section will be used for costs, and whether such money is
23 available or has been sought for this purpose; and

24 (d) Show the proposed project is feasible from a technical standpoint
25 and is economically justified.

26 (2) The ~~commission and office~~ shall keep the local soil conservation
27 districts ~~will keep each other~~ informed of cost-share applications
28 received. Within thirty (30) days of receipt of an application, the ~~local~~
29 ~~soil conservation district or the commission~~ office, in consultation with
30 the local soil conservation district shall review and evaluate and, if
31 deemed necessary, investigate all aspects of the proposed contract or
32 project. As part of such investigation, the district or the ~~commission~~
33 office shall determine whether the plan for development of the conservation
34 improvements or projects is satisfactory. If the district or the ~~commission~~
35 office determines the plan is unsatisfactory, ~~it~~ the office shall return
36 the application to the applicant or participant and the district or
37 the ~~commission~~ office may make such recommendations to the applicant
38 or participant as are considered necessary to make the application
39 satisfactory. When the ~~commission~~ office determines either the application
40 or an application revised pursuant to recommendation of the district or
41 ~~commission~~ office is satisfactory, it shall be considered for funding.

42 (3) The ~~commission~~ office may approve a cost-share contract to an
43 applicant or participant for conservation projects and improvements if,
44 after review, evaluation and investigation, it finds that:

45 (a) The applicant or participant is qualified and responsible;

46 (b) The conservation improvement or project demonstrates public
47 benefit;

48 (c) There is reasonable assurance that the applicant or participant
49 will adhere to contract terms; and

(d) Money is available in the ~~state~~ office of soil and water conservation ~~commission~~ general fund for cost-share.

(4) Upon approval of the cost-share contract or cost-share grant, and securing of all necessary documents, the ~~commission~~ office will make funding available.

SECTION 16. That Section 22-2735, Idaho Code, be, and the same is hereby amended to read as follows:

22-2735. PAYMENTS BY THE ~~STATE~~ OFFICE OF SOIL AND WATER CONSERVATION ~~COMMISSION~~ -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The ~~commission~~ office of soil and water conservation may make payments not to exceed the estimated reasonable cost of an eligible improvement, project, or plan.

(2) The ~~commission~~ office may, in the name of the state of Idaho, enter into contracts with approved applicants, and any such approved applicants may enter into a contract with the ~~commission~~ office concerning eligible improvements, projects or plans. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of the improvements, projects, or plans as determined by the ~~commission~~ office;

(b) The terms under which the ~~commission~~ office may unilaterally terminate the contract and/or seek repayment from the application of sums already paid pursuant to the contract for noncompliance by the applicant with the terms and conditions of the contract and the provisions of this chapter;

(c) An agreement by the applicant binding for the life of the eligible improvements, projects or plans:

(i) To develop water quality plans for landowners and provide payments to landowners for installation of best management practices;

(ii) To determine payment rates in conjunction with the ~~commission~~ office for best management practices;

(iii) To establish a method for administration and provisions for technical assistance to landowners in conjunction with the ~~commission~~ office;

(iv) To allow the state to make payments up to the estimated reasonable cost for best management practices installation, technical assistance and project administration of an eligible project;

(v) To develop and to secure the approval of the ~~commission~~ office of plans for operation of the eligible project;

(vi) To ensure that the local matching share of the cost is provided as applicable;

(vii) To assure an adequate level of landowner participation and application of best management practices to ensure water quality goals are met.

(3) The ~~commission~~ office may enter into contracts to provide technical assistance to applicants that have entered agreements pursuant to this

chapter. Any such contract may include such provisions agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of technical assistance;

(b) The terms under which the ~~commission~~ office may unilaterally terminate the contract, and/or seek repayment of sums paid pursuant to the contract, for noncompliance by the applicants with the terms and conditions of the contract, the provisions of this chapter, or rules adopted pursuant thereto.

(4) The ~~commission~~ office may enter into contracts and establish procedures to be followed in applying for eligible improvements, projects and plans herein authorized as shall be necessary for the effective administration of the water quality program for agriculture.

(5) All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the ~~(the)~~ director of the department of agriculture.

(6) All grant agreements and contracts previously entered into with the state board of health and welfare, soil conservation districts and the ~~commission~~ office pursuant to section 39-3627, Idaho Code, for payments and administration are now to be administered and payments implemented solely by the ~~commission~~ office.

SECTION 17. That Section 22-5201, Idaho Code, be, and the same is hereby amended to read as follows:

22-5201. LEGISLATIVE INTENT. Increasing levels of carbon dioxide and other greenhouse gases in the atmosphere have led to growing interest in national and international forums for implementing measures to slow and reverse the buildup of such atmospheric constituents. Such measures may potentially include the establishment of systems of trading in credits for adoption of practices, technologies or other measures which decrease net emissions of carbon dioxide. Improved agricultural and timber production methods, soil and forest conservation practices and other methods of stewardship of soil and other land resources have great potential to increase carbon sequestration on agricultural and private forest lands and help offset carbon dioxide emissions from other sectors of the economy. It is in the interest of agricultural producers, nonindustrial private forest landowners and the public in general that the office of soil and water conservation ~~commission~~ document and quantify carbon sequestration and greenhouse emissions reductions associated with agricultural and forestry practices, management systems and land uses occurring on cropland, forest land and rangeland in Idaho. It is the intent of the legislature that efforts to quantify and verify carbon sequestration on agricultural and forest lands will enhance the ability of the state's agricultural and nonindustrial private forest landowners to participate in any system of carbon sequestration marketing or trading.

SECTION 18. That Section 22-5202, Idaho Code, be, and the same is hereby amended to read as follows:

22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED -- MEMBERSHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon sequestration advisory committee is hereby created. The committee shall consist of the following nineteen (19) members, to be appointed by and serve at the pleasure of the governor:

- (a) The chairman of the office of soil and water conservation ~~commission~~ or his designee;
- (b) The director of the department of agriculture or his designee;
- (c) The director of the department of environmental quality or his designee;
- (d) The director of the department of lands or his designee;
- (e) One (1) member representing the University of Idaho college of agriculture;
- (f) One (1) member representing an entity which generates electrical energy;
- (g) Two (2) members who are producers of field crops, at least one (1) of whom actively employs a minimum tillage management system in his farming operation;
- (h) Two (2) members who are producers of livestock, at least one (1) of whom is actively involved in implementing a rangeland improvement plan;
- (i) One (1) member with expertise in carbon sequestration marketing or trading;
- (j) One (1) member representing soil conservation districts, as defined in section 22-2717, Idaho Code;
- (k) One (1) member representing the biofuels industry;
- (l) One (1) member representing the transportation industry;
- (m) One (1) member representing an environmental protection or conservation organization;
- (n) One (1) member representing nonindustrial private forest landowners;
- (o) One (1) member representing American Indian tribal interests;
- (p) One (1) member whose expertise is geology; and
- (q) One (1) member whose expertise is economics.

(2) Members of the committee shall be compensated as provided in section 59-509(b), Idaho Code.

(3) The office of soil and water conservation ~~commission~~ shall assist the committee with administrative support as reasonably requested by the committee.

SECTION 19. That Section 22-5203, Idaho Code, be, and the same is hereby amended to read as follows:

22-5203. POWERS AND DUTIES OF THE CARBON SEQUESTRATION ADVISORY COMMITTEE. The carbon sequestration advisory committee may:

- (1) Advise and assist the chairman of the office of soil and water conservation ~~commission~~ in preparing the reports required by this chapter and in conducting the assessment pursuant to section 22-5205, Idaho Code;
- (2) Recommend policies or programs to enhance the ability of Idaho agricultural and nonindustrial private forest landowners to participate in systems of carbon trading. Such recommendations shall include potential

1 policies or programs designed to optimize economic benefits to agricultural
2 producers and nonindustrial private forest landowners participating in
3 carbon trading transactions. Such policies or programs may include, but are
4 not limited to, identifying existing or the potential of creating nonprofit
5 organizations or other public or private entities capable of serving as
6 assemblers of carbon credits or as intermediaries on behalf of producers in
7 carbon trading systems;

8 (3) Encourage the production of educational and advisory materials
9 regarding carbon sequestration on agricultural and forest lands and
10 participation in systems of carbon or greenhouse emissions trading;

11 (4) Identify and recommend areas of research needed to better
12 understand and quantify the processes of carbon sequestration on
13 agricultural and forest lands; and

14 (5) Review the carbon sequestration programs and policies of other
15 states.

16 SECTION 20. That Section 22-5205, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 22-5205. POWERS AND DUTIES OF THE CHAIRMAN. (1) In consultation with
19 the carbon sequestration advisory committee, the chairman of the office
20 of soil and water conservation ~~commission~~ shall assess agricultural and
21 private forest lands in Idaho for past carbon sequestration and future
22 carbon sequestration potential. The assessment shall seek to quantify
23 carbon sequestration associated with various agricultural and forestry
24 practices, management systems and land uses occurring on agricultural and
25 forest lands in this state. On or before March 1, 2003, the chairman shall
26 publish a report of the findings. From time to time, the chairman may update
27 the findings as advancements in understanding of the processes of carbon
28 sequestration and new data become available.

29 (2) The assessment shall be conducted in a manner that shall provide
30 a means for owners of agricultural and forest land to estimate past
31 and future net carbon sequestration resulting from agricultural and
32 forestry practices, conservation measures, management systems and land
33 uses occurring on their property. The chairman of the office of soil
34 and water conservation ~~commission~~ may contract and cooperate with the
35 natural resources conservation service of the United States department of
36 agriculture to conduct assessment activities provided for in this section.

37 (3) The office of soil and water conservation ~~commission~~ may apply for
38 and accept grants, gifts or other sources of public and private funds to
39 carry out the purposes of this chapter.

40 SECTION 21. That Section 22-5206, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 22-5206. CARBON SEQUESTRATION ASSESSMENT FUND CREATED. - There is
43 hereby created and established in the state treasury a fund to be known as
44 the "Carbon Sequestration Assessment Fund," which shall consist of such
45 funds, grants, donations or moneys from other sources. The fund shall be
46 administered by the office of soil and water conservation ~~commission~~ in

1 order to carry out the purposes of this chapter. Moneys in the fund may be
2 expended pursuant to appropriation. Any interest earned on the investment
3 of idle moneys in the fund shall be returned to the fund.

4 SECTION 22. That Section 36-2404, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The
7 delisting advisory team shall develop a state management plan for a
8 species in response to all notification of intent to delist the species
9 by the secretary of interior or secretary of commerce or sooner if deemed
10 appropriate. The state management plan shall provide for the management
11 and conservation of the species once it is delisted, and contain sufficient
12 safeguards to protect the health, safety, private property and economic
13 well-being of the citizens of the state of Idaho.

14 (2) The department of fish and game shall provide the delisting
15 advisory teams, the informational, technical or other needs and
16 requirements of those teams in the performance of their duties.

17 (3) In developing state delisting management plans, the delisting
18 advisory team shall consult with the appropriate state agencies,
19 commissions and boards. The appropriate state agency for wildlife
20 biological and species management issues, and for plant life biological
21 and species management issues is the department of fish and game. The
22 appropriate state agency for timber harvest activities, oil and gas
23 exploration activities and for mining activities is the department of
24 lands. The appropriate state agencies ~~for agricultural activities are is~~
25 the department of agriculture ~~and the soil conservation commission~~. The
26 appropriate state agency for public road construction is the transportation
27 department. The appropriate state agency for water rights is the department
28 of water resources. The appropriate state agency for water quality is
29 the department of environmental quality. The appropriate state agency
30 for outfitting and guiding activities is the Idaho outfitters and guides
31 licensing board.

32 SECTION 23. That Section 39-3602, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 39-3602. DEFINITIONS. Whenever used or referred to in this chapter,
35 unless a different meaning clearly appears from the context, the following
36 terms shall have the following meanings:

37 (1) "Applicable water quality standard" means those water quality
38 standards identified in the rules of the department.

39 (2) "Attainable" beneficial uses means uses that can be achieved
40 by the implementation of required effluent limits for point sources and
41 cost-effective and reasonable best management practices for nonpoint
42 sources.

43 (3) "Best management practice" means practices, techniques or measures
44 developed, or identified, by the designated agency and identified in
45 the state water quality management plan which are determined to be a
46 cost-effective and practicable means of preventing or reducing pollutants

1 generated from nonpoint sources to a level compatible with water quality
2 goals.

3 (4) "Board" means the board of environmental quality.

4 (5) "Control strategies" means cost-effective actions in TMDL
5 implementation plans to control the discharge of pollutants that can
6 reasonably be taken to improve the water quality within the physical,
7 operational, economic and other constraints that affect individual
8 enterprises and communities.

9 (6) "Department" means the department of environmental quality.

10 (7) "Designated agency" means the department of lands for timber
11 harvest activities, for oil and gas exploration and development and
12 for mining activities; the ~~soil conservation commission~~ department of
13 agriculture for grazing activities and for agricultural activities; the
14 transportation department for public road construction; the department of
15 agriculture for aquaculture; and the department of environmental quality
16 for all other activities.

17 (8) "Designated use or designated beneficial use" means those uses
18 assigned to waters as identified in the rules of the department whether or
19 not the uses are being attained. The department may adopt subcategories of
20 a use.

21 (9) "Director" means the director of the department of environmental
22 quality, or his or her designee.

23 (10) "Discharge" means any spilling, leaking, emitting, escaping,
24 leaching, or disposing of a pollutant into the waters of the state. For the
25 purposes of this chapter, discharge shall not include surface water runoff
26 from nonpoint sources or natural soil disturbing events.

27 (11) "Existing use" means those surface water uses actually attained
28 on or after November 28, 1975, whether or not they are designated uses.
29 Existing uses may form the basis for subcategories of designated uses.

30 (12) "Full protection, full support, or full maintenance of designated
31 beneficial uses of water" means compliance with those levels of water
32 quality criteria listed in the appropriate rules of the department, or where
33 there is no applicable numerical criteria, compliance with the reference
34 streams or conditions approved by the director in consultation with the
35 appropriate basin advisory group.

36 (13) "Lower water quality" means a measurable adverse change in
37 a chemical, physical, or biological parameter of water relevant to a
38 designated beneficial use, and which can be expressed numerically.
39 Measurable adverse change is determined by a statistically significant
40 difference between sample means using standard methods for analysis and
41 statistical interpretation appropriate to the parameter. Statistical
42 significance is defined as the ninety-five percent (95%) confidence limit
43 when significance is not otherwise defined for the parameter in standard
44 methods or practices.

45 (14) "National pollutant discharge elimination system (NPDES)" means
46 the point source permitting program established pursuant to section 402 of
47 the federal clean water act.

48 (15) "New nonpoint source activity" means a new nonpoint source
49 activity or a substantially modified existing nonpoint source activity on
50 or adversely affecting an outstanding resource water which includes, but

1 is not limited to, new silvicultural activities, new mining activities and
2 substantial modifications to an existing mining permit or approved plan,
3 new recreational activities and substantial modifications to existing
4 recreational activities, new residential or commercial development that
5 includes soil disturbing activities, new grazing activities and substantial
6 modifications to existing grazing activities, except that reissuance of
7 existing grazing permits, or grazing activities and practices authorized
8 under an existing permit, is not considered a new activity. It does not
9 include naturally occurring events such as floods, landslides, and wildfire
10 including prescribed natural fire.

11 (16) "Nonpoint source activities" includes grazing, crop production,
12 silviculture, log storage or rafting, construction, mining, recreation,
13 septic systems, runoff from storms and other weather related events and
14 other activities not subject to regulation under the federal national
15 pollutant discharge elimination system. Nonpoint source activities on
16 waters designated as outstanding resource waters do not include issuance of
17 water rights permits or licenses, allocation of water rights, operation of
18 diversions, or impoundments.

19 (17) "Nonpoint source runoff" means water which may carry pollutants
20 from nonpoint source activities into the waters of the state.

21 (18) "Outstanding resource water" means a high quality water, such
22 as water of national and state parks and wildlife refuges and water of
23 exceptional recreational or ecological significance, which has been so
24 designated by the legislature. It constitutes an outstanding national
25 or state resource that requires protection from point source and nonpoint
26 source activities that may lower water quality.

27 (19) "Person" means any individual, association, partnership, firm,
28 joint stock company, joint venture, trust, estate, political subdivision,
29 public or private corporation, state or federal governmental department,
30 agency or instrumentality, or any legal entity, which is recognized by law as
31 the subject of rights and duties.

32 (20) "Point source" means any discernible, confined, and discrete
33 conveyance including, but not limited to, any pipe, ditch, channel, tunnel,
34 conduit, well, discrete fissure, container, rolling stock, concentrated
35 animal feeding operation, or vessel or other floating craft, from which
36 pollutants are, or may be, discharged. This term does not include return
37 flows from irrigated agriculture, discharges from dams and hydroelectric
38 generating facilities or any source or activity considered a nonpoint source
39 by definition.

40 (21) "Pollutant" means dredged spoil, solid waste, incinerator
41 residue, sewage, garbage, sewage sludge, munitions, chemical waste,
42 biological materials, radioactive materials, heat, wrecked or discarded
43 equipment, rock, sand, silt, cellar dirt; and industrial, municipal and
44 agricultural waste, gases entrained in water; or other materials which, when
45 discharged or released to water in excessive quantities cause or contribute
46 to water pollution. Provided however, biological materials shall not
47 include live or occasional dead fish that may accidentally escape into the
48 waters of the state from aquaculture facilities.

49 (22) "Reference stream or condition" means one (1) of the following:

1 (a) The minimum biological, physical and chemical conditions necessary
2 to fully support the designated beneficial uses; or

3 (b) A water body representing natural conditions with few impacts from
4 human activities and which are representative of the highest level of
5 support attainable in the basin; or

6 (c) A water body representing minimum conditions necessary to fully
7 support the designated beneficial uses.

8 In highly mineralized areas or in the absence of such reference streams
9 or water bodies, the director, in consultation with the basin advisory
10 group and the technical advisers to it, may define appropriate hypothetical
11 reference conditions or may use monitoring data specific to the site in
12 question to determine conditions in which the beneficial uses are fully
13 supported.

14 (23) "Short-term or temporary activity" means an activity which is
15 limited in scope and is expected to have only minimal impact on water quality
16 as determined by the director. Short-term or temporary activities include,
17 but are not limited to, maintenance of existing structures, limited road and
18 trail reconstruction, soil stabilization measures, and habitat enhancement
19 structures.

20 (24) "Silviculture" means those activities associated with the
21 regeneration, growing and harvesting of trees and timber including, but not
22 limited to, disposal of logging slash, preparing sites for new stands of
23 trees to be either planted or allowed to regenerate through natural means,
24 road construction and road maintenance, drainage of surface water which
25 inhibits tree growth or logging operations, fertilization, application of
26 herbicides or pesticides, all logging operations, and all forest management
27 techniques employed to enhance the growth of stands of trees or timber.

28 ~~(25) "Soil conservation commission" means an agency of state government~~
29 ~~as created in section 22-2718, Idaho Code.~~

30 ~~(26)~~ "Soil conservation district" means an entity of state government
31 as defined in section 22-2717, Idaho Code.

32 (27) "State" means the state of Idaho.

33 ~~(28)~~ "State water quality management plan" means the state management
34 plan developed and updated by the department in accordance with sections
35 205, 208, and 303 of the federal clean water act.

36 ~~(29)~~ "Subbasin assessment" means a document that describes a watershed
37 or watersheds for which a total maximum daily load is proposed, the water
38 quality concerns, the status and attainability of designated uses and water
39 quality criteria for individual water bodies, the nature and location of
40 pollutant sources, past and ongoing pollutant control activities, and such
41 other information that the director with the advice of the local watershed
42 advisory group determines is pertinent to the analysis of water quality and
43 the development and implementation of a total maximum daily load.

44 ~~(30)~~ "Total maximum daily load (TMDL)" means a plan for a water body
45 not fully supporting designated beneficial uses and includes the sum of the
46 individual wasteload allocations for point sources, load allocations for
47 nonpoint sources, and natural background levels of the pollutant impacting
48 the water body. Pollutant allocations established through TMDLs shall be at
49 a level necessary to implement the applicable water quality standards for
50 the identified pollutants with seasonal variations and a margin of safety to

account for uncertainty concerning the relationship between the pollutant loading and water quality standards.

(310) "Waters or water body" means all the accumulations of surface water, natural and artificial, public and private, or parts thereof which are wholly or partially within, flow through or border upon this state. For the purposes of this chapter, water bodies shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state.

(321) "Water pollution" is such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(332) "Water quality standards" are the designated uses of a water body and water quality criteria necessary to support those uses, and an antidegradation policy.

(343) "Watersheds" means the land area from which water flows into a stream or other body of water which drains the area. For the purposes of this chapter, the area of watersheds shall be recommended by the basin advisory group described in section 39-3613, Idaho Code.

SECTION 24. That Section 39-6407, Idaho Code, be, and the same is hereby amended to read as follows:

39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives, the council shall create a technical advisory group which may include the designated representatives of the public health district, city and county planning or engineering departments, ~~D~~department of ~~E~~environmental ~~E~~quality, ~~D~~department of ~~L~~lands, ~~D~~department of ~~F~~fish and ~~G~~game, ~~D~~department of ~~P~~parks and ~~R~~recreation, ~~D~~department of ~~W~~water ~~R~~esources, ~~State Soil Conservation Commission~~ department of agriculture, United States ~~F~~forest ~~S~~ervice, United States ~~B~~bureau of ~~L~~land ~~M~~management, United States ~~A~~army ~~C~~orps of ~~E~~ngineers, United States ~~A~~gricultural ~~C~~onservation and ~~S~~tabilization ~~S~~ervices, United States ~~E~~nvironmental ~~P~~rotection ~~A~~gency, United States ~~G~~eological ~~S~~urvey or any one (1) or more of said agencies and such representatives of agriculture, conservation, forest products, sportsmen and mining interests as may be appointed by the county. Indian tribes may nominate a representative for the technical advisory group to the county for appointment to the group. Members shall serve without state compensation except such normal compensation received by members who are state employees serving in the normal course and scope of their employment.

SECTION 25. That Section 39-6609, Idaho Code, be, and the same is hereby amended to read as follows:

39-6609. TECHNICAL COMMITTEE. To assist in the development of its program, the council shall create a technical committee which may include

1 but is not exclusively limited to designated representatives of the public
2 health district, city and county planning or engineering departments, the
3 county planning and zoning commission, the McCall water and sewer district,
4 department of environmental quality, department of lands, department of
5 fish and game, department of parks and recreation, department of water
6 resources, ~~state soil conservation commission~~ department of agriculture,
7 United States forest service, United States army corps of engineers, United
8 States agricultural conservation and stabilization services, United States
9 soil natural resources conservation service, United States geological
10 survey, United States environmental protection agency and representatives
11 proposed by interests in agriculture, environmental protection, forest
12 products, sporting and mining. Indian tribes may nominate a representative
13 for the technical committee. Members shall serve without state compensation
14 except such normal compensation received by members who are state, city,
15 county, district or federal employees serving in the normal course and scope
16 of their employment.

17 SECTION 26. That Section 42-3703, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 42-3703. DEFINITIONS. Whenever used or referred to in this act, unless
20 a different meaning clearly appears from the context, the following terms
21 shall have the following meanings:

22 1. "District" or "watershed improvement district" means a governmental
23 subdivision of this state and a public body corporate and politic organized
24 in accordance with the provisions of this act for the purposes, with the
25 powers, and subject to the restrictions hereinafter set forth.

26 2. "Director" means one of the members of the governing body of a
27 district elected or appointed in accordance with the provisions of this act.

28 3. ~~"Commission" or "state soil conservation commission" means the~~
29 ~~agency created in section 22-2718, Idaho Code.~~

30 4. "Petition" means a petition filed under the provisions of section
31 42-3705, Idaho Code, for the creation of a district.

32 5. "Nominating petition" means a petition filed under the provisions
33 of section 42-3706, Idaho Code, to nominate a candidate for the office of
34 director of a watershed improvement district.

35 6. "State" means the state of Idaho.

36 7. "Landowner" includes any person, firm or corporation who shall hold
37 title to any lands lying within a district organized under the provisions of
38 this act. A contract purchaser who is occupying the land shall be construed
39 as a landowner.

40 8. "Qualified elector" means any natural person residing within the
41 boundaries of the state of Idaho, owning land within the boundaries of the
42 district, and qualified under the laws of this state to vote in an election by
43 the people.

44 SECTION 27. That Section 42-3705, Idaho Code, be, and the same is hereby
45 amended to read as follows:

1 42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen
2 (15) owners of land lying within the limits of the territory proposed to be
3 organized into a watershed improvement district may file a petition with
4 the state office of soil and water conservation ~~commission~~ asking that a
5 watershed improvement district be organized to function in the territory
6 described in the petition. In the event that there are less than fifteen (15)
7 persons owning land lying within the limits of the territory proposed to be
8 organized into a district, then and in that case such petition will be deemed
9 sufficient if it contains the signatures of two-thirds (2/3) of the owners of
10 land and representing two-thirds (2/3) of the acreage of land lying within
11 the limits of the said territory. Such petition shall set forth:

12 1. A description of the territory proposed to be organized as
13 a watershed improvement district, which description shall be deemed
14 sufficient if generally accurate.

15 2. That there is need, in the interest of the public health, safety,
16 and general welfare for a watershed improvement district to function in the
17 territory described in the petition.

18 3. The proposed name of said district.

19 4. A request that the state office of soil and water conservation
20 ~~commission~~ duly define the boundaries for such district; that an election
21 be held within the territory so defined on the question of the creation of a
22 watershed improvement district in such territory.

23 After such petition has been filed with the state office of soil and
24 water conservation ~~commission~~ it shall be the duty of the ~~commission office~~
25 to define by metes and bounds or by legal subdivisions the boundaries of
26 such proposed district, and to hold an election, subject to the provisions
27 of section 34-106, Idaho Code, within the proposed district upon the
28 proposition of the creation of the district, and to cause notice of such
29 election to be given. The question shall be submitted by ballots upon which
30 the words "For creation of a watershed improvement district of the lands
31 below described and lying in the county(ies) of . . . , . . . and . . . " and
32 "Against creation of a watershed improvement district of the lands below
33 described and lying in the county(ies) of . . . , . . . and . . . " shall appear
34 with a square before each proposition and a direction to insert an X mark
35 in the square before one or the other of said propositions as the voter may
36 favor or oppose creation of such district. The ballot shall set forth the
37 boundaries of such proposed district as determined by the state office of
38 soil and water conservation ~~commission~~.

39 All qualified electors who own land within the proposed district shall
40 be eligible to vote in the election.

41 The state office of soil and water conservation ~~commission~~ shall pay all
42 expenses of, and supervise the conduct of, such election. The ~~commission~~
43 office of soil and water conservation shall conduct the election as provided
44 in chapter 14, title 34, Idaho Code. No informality in the conduct of such
45 election or in any matter relating thereto shall invalidate said election or
46 the result thereof if notice thereof shall have been given substantially as
47 herein provided, and said election shall have been fairly conducted.

48 If the election shall result in a majority of votes being cast in favor
49 of the creation of such proposed district the state office of soil and water

1 conservation ~~commission~~ shall proceed with the organization of the district
2 in the manner hereinafter provided, to wit:

3 1. The state office of soil and water conservation ~~commission~~ shall
4 appoint one (1) director to act with the two (2) directors elected as
5 hereinafter provided, which said directors shall be the governing body of
6 the district.

7 2. The state office of soil and water conservation ~~commission~~ shall
8 present to the secretary of state a certificate stating:

9 (a) That a petition for the creation of said district was filed with the
10 state office of soil and water conservation ~~commission~~.

11 (b) The name and residence of the directors appointed by said
12 ~~commission office~~.

13 (c) The name which is proposed for said district.

14 (d) That an election on such petition was held, and that the majority of
15 votes cast in said election favored the formation of the district.

16 The secretary of state shall receive, file and record said certificate
17 of the state office of soil and water conservation ~~commission~~, and when
18 said certificate shall be filed and recorded the district shall constitute
19 a governmental subdivision of this state and a public body corporate and
20 politic. The secretary of state shall make and issue to the said directors a
21 certificate of the due organization of the said district.

22 SECTION 28. That Section 42-3706, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance
25 of the secretary of state of a certificate of organization of a watershed
26 improvement district nominating petitions may be filed with the ~~state~~
27 office of soil and water conservation ~~commission~~ to nominate candidates for
28 directors of such district. The state office of soil and water conservation
29 ~~commission~~ shall give notice of an election to be held, subject to the
30 provisions of section 34-106, Idaho Code, for the election of two (2)
31 directors for the district. The names of all nominees on behalf of whom
32 such nominating petitions have been filed in the manner provided in section
33 34-1404, Idaho Code, shall appear arranged in the alphabetical order of
34 the surnames upon ballots with a square before each name, and direction to
35 insert an X mark in the square before any two (2) names to designate the
36 voter's preference. All qualified electors who own land or reside within the
37 proposed district shall be eligible to vote in said election. The two (2)
38 candidates who shall receive the largest number respectively of the votes
39 cast in such election shall be elected for such district. The state office
40 of soil and water conservation ~~commission~~ shall pay all the expenses of such
41 election, supervise the conduct thereof, and publish the results thereof
42 in accordance with the provisions of chapter 14, title 34, Idaho Code.
43 All elections in existing districts following the first election shall be
44 conducted by the district directors of the district involved who shall give
45 notice of such elections and who shall bear the cost thereof.

46 In any election for director, if after the deadline for filing a
47 declaration of intent as a write-in candidate, it appears that the number of
48 qualified candidates who have been nominated for director positions is equal

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1 to the number of directors to be elected, it shall not be necessary for the
2 candidates to stand for election, and the board of directors shall declare
3 such candidates elected as directors, and the secretary of the district
4 shall immediately make and deliver to such persons certificates of election.

5 SECTION 29. That Section 42-3707, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The
8 governing body of the district shall consist of three (3) directors elected
9 or appointed as provided hereinabove. The director appointed by the
10 ~~commission~~ office of soil and water conservation shall be an owner of land
11 within the district and shall be a person who by training and experience is
12 qualified to perform the specialized service which will be required in the
13 performance of his duties hereunder. The term of office of each director
14 shall be four (4) years, except that the director first appointed by the
15 ~~state office of soil and water conservation commission~~ shall be designated
16 to serve for a term of two (2) years from the date of his appointment.
17 A director shall hold office until his successor has been elected or
18 appointed, and has qualified. Vacancies shall be filled for an unexpired
19 term by a majority of the directors duly qualified and acting at the time the
20 vacancy shall arise. A majority of the directors shall constitute a quorum
21 and the concurrence of a majority in any matter within their duties shall be
22 required for its determination. A director shall receive no compensation
23 for his service, but shall be entitled to expenses, including traveling
24 expenses necessarily incurred in the discharge of his duties.

25 The directors may employ a secretary, technical experts, and such
26 other employees, permanent and temporary, as they may require, and shall
27 determine their qualifications, duties, and compensation. The directors
28 may employ their own counsel and legal staff. The directors may delegate
29 to their chairman, to one or more directors, or to agents or employees such
30 powers and duties as they may deem proper and necessary. The directors
31 shall furnish to the ~~state office of soil and water conservation commission~~,
32 upon request, copies of such documents or other information concerning
33 ~~their~~ the directors' activities as said ~~commission office~~ may require
34 in the performance of its duties under this ~~act~~ chapter. The directors
35 shall provide for the keeping of a record of all proceedings, resolutions,
36 regulations and orders issued or adopted; shall provide for an annual audit
37 of its accounts, and shall provide for the execution of surety bonds by any
38 employee or officer who shall be entrusted with funds or property of the
39 district.

40 SECTION 30. That Section 42-3717, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3)
43 years after the organization of a district under the provisions of this
44 chapter any twenty-five (25) qualified electors or owners of land lying
45 within the boundaries of such district or, if less than twenty-five (25)
46 owners of land or qualified electors reside within the boundaries of

1 such district it would be deemed sufficient if two-thirds (2/3) of the
2 resident group, may file a petition with the state office of soil and water
3 conservation ~~commission~~ praying that the operations of the district be
4 terminated and the existence of the district discontinued. After such
5 petition has been received by the state office of soil and water conservation
6 ~~commission~~ it shall give notice of the holding of an election, subject to the
7 provisions of section 34-106, Idaho Code, which the said ~~commission office~~
8 shall supervise and govern the conduct in accordance with the provisions
9 of chapter 14, title 34, Idaho Code. The question to be submitted by
10 ballots upon which the words "For terminating the existence of the (name
11 of the watershed improvement district to be here inserted)" and "Against
12 terminating the existence of the (name of the watershed improvement district
13 to be inserted here)" shall appear with a square before each proposition,
14 and a direction to insert an X mark in the square before one or the other of
15 said propositions as the voter may favor or oppose discontinuance of such
16 district. All qualified electors who own land or reside within the proposed
17 district shall be eligible to vote in said election. No informality in the
18 conduct of such election or in any matters relating thereto shall invalidate
19 said election or the result thereof if notice thereof shall have been given
20 as herein provided, and said election shall have been fairly conducted.

21 The state office of soil and water conservation ~~commission~~ shall
22 certify the result of such election to the directors of the district. If the
23 state office of soil and water conservation ~~commission~~ shall certify that a
24 majority of the votes cast in said election favor the discontinuance of the
25 existence of the district, the directors of the district shall forthwith
26 proceed to terminate the affairs of the district. Any moneys remaining
27 in the treasury of said district following the winding up of the affairs
28 of the district shall be paid by the directors into the state treasury.
29 The directors shall file an application duly verified with the secretary
30 of state for the discontinuance of such district which shall recite that
31 the affairs of the district have been wound up, and shall set forth a full
32 accounting of the winding up of the affairs of said district. The secretary
33 of state shall issue to the directors a certificate of dissolution, and shall
34 record said certificate in his office.

35 The state office of soil and water conservation ~~commission~~ shall not
36 entertain petitions for the discontinuance of any district nor conduct
37 elections upon such petitions more often than once in three (3) years.

38 SECTION 31. That Section 67-818, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED
41 SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in
42 the office of the governor, the "Office of Species Conservation." The
43 administrator of the office of species conservation shall be the official in
44 the state designated to oversee implementation of federal recovery plans,
45 as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided
46 by this section. The administrator shall be appointed by, and serve at the
47 pleasure of, the governor and shall be subject to confirmation by the state
48 senate.

1 (2) The duties of the office of species conservation shall include:

2 (a) Coordination of all state departments and divisions with duties and
3 responsibilities affecting endangered species, threatened species,
4 candidate species, species petitioned to be listed, and rare and
5 declining species as defined in section 36-2401, Idaho Code;

6 (b) Coordinating state implementation and response to federal recovery
7 plans, biological opinions, guidance and projects among all state and
8 local governments in the state of Idaho;

9 (c) Participation in regional efforts to cooperatively address
10 endangered species, threatened species, candidate and petitioned
11 species, and rare and declining species;

12 (d) Providing input and comment to federal and state agencies, and
13 tribes on issues relating to endangered species, threatened species,
14 candidate and petitioned species, and rare and declining species;

15 (e) Cooperating and consulting with the department of fish and game,
16 the department of lands, the department of water resources, the
17 department of agriculture, and the department of parks and recreation
18 regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C.
19 section 1535 and 16 U.S.C. section 1539;

20 (f) Negotiating agreements with federal agencies concerning
21 endangered species, threatened species, candidate species, petitioned
22 species, and rare and declining species including, but not limited to,
23 agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section
24 1539(a), other than those agreements negotiated pursuant to 16 U.S.C.
25 section 1535;

26 (g) Providing the people of the state of Idaho with an ombudsman who
27 can listen to citizens being harmed or hindered by the regulations
28 of the ESA and direct them to the appropriate state or federal agency
29 and/or speak on their behalf, as deemed appropriate by the ombudsman, to
30 address issues or concerns related to the ESA;

31 (h) Serve as a repository for agreements and plans among governmental
32 entities in the state of Idaho for the conservation of rare and
33 declining species, petitioned, candidate, threatened and endangered
34 species.

35 (3) State policy and management plans developed pursuant to this
36 section shall be developed in accordance with the following subsections:

37 (a) State policy on rare and declining, petitioned, candidate,
38 threatened, and endangered species and state management plans shall
39 be developed in consultation with the appropriate state agencies. The
40 appropriate state agency for wildlife and plant management issues is
41 the department of fish and game. The appropriate state agency for
42 timber harvest activities, oil and gas exploration activities and
43 for mining activities is the department of lands. The appropriate
44 state agencies ~~for agricultural activities are~~ is the department of
45 agriculture ~~and the soil conservation commission~~. The appropriate
46 state agency for public road construction is the transportation
47 department. The appropriate state agency for water rights is the
48 department of water resources. The appropriate state agency for water
49 quality is the department of environmental quality. The appropriate

1 state agency for outfitting and guiding activities is the Idaho
2 outfitters and guides licensing board;

3 (b) State management plans shall be the policy of the state of Idaho,
4 but are subject to legislative approval, amendment or rejection by
5 concurrent resolution. State management plans shall be subject to
6 public notice and comment but shall not be subject to judicial review.

7 (4) The governor's office of species conservation shall prepare a
8 report to the legislature recommending a plan to develop state conservation
9 assessments and strategies for rare and declining species in the state of
10 Idaho and submit that report and recommendation to the legislature. The
11 report and recommendation are subject to legislative approval, amendment or
12 rejection by concurrent resolution.

13 (5) No provision of this section shall be interpreted as to supersede,
14 abrogate, injure or create rights to divert or store water and apply water to
15 beneficial uses established under section 3, article XV of the constitution
16 of the state of Idaho, and title 42, Idaho Code.

17 SECTION 32. Title to all machinery, buildings, lands and property of
18 every kind and nature belonging to the state soil conservation commission
19 shall immediately upon the effective date of this act and without further
20 conveyance be vested in the office of soil and water conservation and, as
21 soon as practical, be delivered to the office of soil and water conservation.
22 Also upon the effective date of this act, all contracts entered into to
23 which the state soil conservation commission is a lawful party shall remain
24 in full force and effect for the period provided in such contracts and the
25 office of soil and water conservation shall be substituted for the state soil
26 conservation commission as party to such contracts.